

# Evaluation of the Philippine Human Rights Plan (1996-2000)



**COMMISSION ON HUMAN RIGHTS PHILIPPINES**  
**KOMISYON NG KARAPATANG PANTAO NG PILIPINAS**



**GOP-UNDP PROGRAMME**  
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**Evaluation  
of the  
Philippine  
Human Rights  
Plan  
(1996-2000)**

## **Commission on Human Rights of the Philippines (CHRP)**

### **Institutional Profile**

The Constitution created the Commission on Human Rights of the Philippines as an independent office mandated to cause the respect for, protection and promotion of human rights.

It empowers CHR, among others, to:

- Investigate, on its own or upon complaint, all forms of civil and political rights violations;
- Issue subpoena and subpoena duces tecum consistent with its own rules and operational guidelines;
- Provide appropriate legal measures for the protection of the rights of all person in the Philippines as well as Filipinos living abroad and setup preventive measures against human rights violations;
- Provide legal aid to the underprivileged whose rights have been violated or need protection;
- Visit jails and detention centers to look into the plight of prisoners and detainees;
- Establish a continuing program of research, education and information to enhance respect for human rights and recommend to Congress effective measures to promote human rights; and
- Monitor the Philippine government's compliance with its international treaty obligations on human rights.

It has 15 regional offices and 5 sub-offices all over the country.

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## Introduction

**A**fter five years of implementation and before embarking on a second phase of the Plan, the CHR engaged the services of the Development Academy of the Philippines to assess the implementation of the PHRP and to learn lessons and useful strategies that can be used in the promotion and protection of human rights.

The Evaluation of the Philippine Human Rights Plan (1996 – 2000) has two main objectives: to *review the PHRP implementation and status*, and to *assess PHRP institutional arrangements*. Using key informant technique as the main methodological tool, several representatives from the sixteen (16) vulnerable groups as well as some officials and staff of the Commission on Human Rights, have been interviewed on the dimensions of the PHRP implementation. Progress of each PHRP sectoral plan was reviewed and analyzed by examining the PHRP Action Agenda.

The study situates the PHRP within the international commitments on human rights leading to the standards set for each sector. The very impetus of the Plan has been supported by virtue of these commitments. On June 14-25, 1993, the Philippines, along with other countries, adopted the Vienna Declaration and Programme of Action. Under paragraph 71 of the Declaration: "The World Conference on Human Rights recommends that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights." Under the leadership of the Commission on Human Rights (CHR), a series of consultations at the regional and sectoral levels were implemented as preparatory activities in the formulation of a long term PHRP.

The fundamental purpose of a national human rights action plan is to improve the promotion and protection of human rights in a particular country. It does this by placing human rights improvements in the context of public policy, so that governments and communities can endorse human improvements as practical goals, devise programmes to ensure the achievement of those goals, engage all relevant sectors of government and society and allocate sufficient resources.

National human rights plans need to be contextualized within the unique situation of each country and the extent of the efforts that its citizens and government are willing to undertake to promote and protect human. The preparation of national human rights plan needs to take into consideration the institutions and development programs that are already in place to address the concerns of the vulnerable sectors.

## Summary of Findings

The PHRP1 approaches the promotion and protection of human rights in the Philippines along two axes:

**Compliance with International Treaties and Conventions where the country is a signatory.**

These are efforts on instituting legal instruments to ensure that the country adheres to international norms and standards, and that violations are properly sanctioned.

**Mainstreaming Human Rights in Development Efforts.**

The plan advocates a human rights approach in approaching the development process and mainstreams human rights into the development programming efforts of the different agencies and national development frameworks. It focuses on raising levels of accountability in the development process by identifying claim holders (citizens) and duty-bearers (state) and enhancing institutional arrangements by which the rights and obligations of both parties are exercised.

From the point of view of mainstreaming human rights in the development process, the following are some of the general lessons that can be derived from the plan implementation:

- A. The PHRP served as a comprehensive document on the human rights situation in the Philippines;
- B. Participatory approach broadened the stakeholdership of the human rights agenda;
- C. The Plan promoted a greater awareness of the human rights issues and concerns among the government agencies, non-government organizations, private sector and among the sixteen(16) vulnerable sectors.;
- D. The Plan served as an advocacy tool and provided legitimacy to the concerns of disadvantaged sectors;
- E. PHRP created an awareness of the linkage between human rights and development; and
- F. The Plan served as a catalyst for inter-agency collaboration and multi-stakeholder cooperation for the promotion and protection of human rights.

## Other Lessons Learned and Areas for Improvement

The following are some limitations in the planning, formulation, implementing and monitoring process that can be addressed in the next attempt to draft another human rights plan.

**Unclear Bases for Formulation of the PHRP agenda.** This stems from a lack of baseline study or a comprehensive situationer that identifies the gaps in the human rights promotion and protection and the standards by which the current HR situation can be compared.

**Insufficient Resources for HR Programs.** While the memorandum extending the operations of the task force provides that the agencies can allocate resources from their own budget, no additional resources were provided for HR programs.

**Perceived ineffectiveness of current SWGs as mechanisms for Implementation and Monitoring.** A number of issues retard the inter-agency cooperation which is perceived to be the added value of the SWGs. Some respondents also mentioned the lack of technical ability to address the issues of their sector.

**Relationship of the PHRP1 with other Development Plans.** The plan in its present form duplicates aspects of other national development plans and sectoral plans.

**Overlaps in the concerns across sectors.** There is a duplication of issues across the sixteen (16) vulnerable sectors (e.g. Muslims are in the Muslim, ICC and Internally Displaced Sectors; Children are affected by issues in other sectors as well).

Generally, it can be said that the efforts in the PHRP1 preparation and implementation were able to create an environment receptive to HR promotion and protection in the Philippines. The enhanced awareness of HR issues and the mechanisms that had been created as a result of PHRP can serve as a foundation for the subsequent national PHRP. The areas for improvement can serve as lessons for the preparation for the next PHRP as well as areas for follow through and enhancement of existing strategies on human rights promotion and protection.

## Recommendations and Alternatives

Taking note of the gains and areas for development in the PHRP 1 and the challenges for human rights promotion and protection in the Philippines, the following are the proposed elements in the preparation of the next PHRP. The recommendations include decision points for the various stakeholders, strategies to enhance existing institutional arrangements for the plan implementation and monitoring. It also takes into consideration the need for a transparent and participatory effort in the PHRP preparation and implementation.

## **A Baseline Study on Human Rights Promotion and Protection in the Philippines**

Central to the task of preparing a national human rights plan is complete and accurate information on the human rights situation in the Philippines or a baseline study on the human rights protection and promotion that is acceptable to the various stakeholders.

### **Considerations in the Formulation of the PHRP**

The initial decision points are on the purpose, content and structure of the PHRP as an instrument for human rights protection and promotion. It should also be decided whether the PHRP is a government plan or to include non-government organizations and the private sector as owners of the plan. Prior to making these decisions, it is recommended that a review of the current responsibilities and accountabilities for the priority areas of concerns both at the national levels be made. Similarly, a review of the structure and content of agency plans and national development plans and existing structures of non-government organizations needs to be done to identify available implementing mechanisms for the priority areas of concern.

### **Strategy and Agenda Formulation**

Given the existing institutional arrangements, the appropriate role and function of the PHRP should be identified for each of the vulnerable sectors and for the human rights efforts in the country as a whole (e.g. role of the PHRP in the gender sector given that there is already an NCRFW; in the children sector given the presence of the Council for the Welfare of Children and in the Prisoners sector, where very little is done in terms of protecting their rights). The PHRP should also be able to define its role against the national development plans.

### **Plan Implementing and Monitoring Arrangements**

The next set of considerations is on the institutional arrangements and provisions for the implementation of the plan that need to be determined based on the final version of the PHRP. These include designation of the PHRP secretariat; agency implementation mechanisms (national government agencies and local government units); inter-agency coordination/issue resolution mechanisms; capacity building; information and education; progress reporting, updating of the agenda; and identification of new issues.

## Part I

### Background

*... one of the more important innovations of the UN Declaration [on the Right to Development] is the provision mandating states to remove "obstacles" to development arising from the failure to respect rights and freedoms. This means that the state itself will need to (a) observe and respect rights and freedoms as embodied in the international human rights Covenants and related instruments, and (b) address the need to reform state structures, institutions and policies which are an obstacle to the realization of these rights.<sup>1</sup>*

The United Nations' General Assembly in its World Conference on Human Rights in Vienna, Austria on June 14-25, 1993, adopted the Vienna Declaration and Programme of Action. Paragraph 71 of the Declaration recommends that "each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights." The Philippine Government's response to this call was Presidential Proclamation Order No. 258, issued in February 1995, "Establishing an Inter-Agency Task Force for Strategic Planning and Research for Human Rights Protection", through which a number of activities were conducted that led to the formulation of the plan.

The Philippine Human Rights Plan I (PHRPI) 1996-2000 outlines the national framework for the protection of human rights in accordance with national and international obligations. It established an agenda for action on the legislative, administrative and programme concerns in order to improve the human rights situation of disadvantaged and vulnerable groups<sup>2</sup> in the country.

Feedback on the status of the PHRP revealed gaps in the implementation of the agenda for action. Low completion rates and difficulties in assessing the status of the agenda items were among the problems encountered. Prior to formulating the PHRP II, the CHR deemed it necessary to identify the lessons from the failures and successes in the implementation of the PHRP I and to set a baseline from which to measure progress of the subsequent plans. The CHR would also like to examine the linkages of the PHRP with the Medium Term Development Plan and the National Anti-Poverty Agenda.

<sup>1</sup> A South Asian Perspective in Human Rights: The New Consensus, Dr. Neelan Tiruchelvam, Director, International Centre for Ethnic Studies, Law and Society Trust, Sri Lanka.

<sup>2</sup> The plan covers sixteen ( 16 ) sectors: Children, Youth, Elderly, Women, Urban Poor, Prisoners/ Detainees, Indigenous Cultural Communities, Migrant Workers, Persons with Disabilities, Internally Displaced Persons, Mentally Disabled Persons, Rural Workers, Public Sector Labor, Private Sector, Informal Labor and Muslims.



## Study Objectives

Within the broader objective of updating the PHRP, the CHR requested the Development Academy of the Philippines to evaluate the PHRP I, specifically on the following areas:

- extent and nature of completed and uncompleted activities of the Programmes of Action for the different sectors included in the 1996-2000; and,
- impediments (internal and external) that agencies, civil society organizations and disadvantaged sectors involves, encountered for implementation(e.g. technical, budgetary).

## Outline of the Report

The report is divided into four (4) parts: *Part One* discusses the background and framework of the study, the methodology and the scope of the evaluation. *Part Two* presents the context of the study by way of reviewing the PHRPI principles, objectives, content, implementing mechanisms and structures. *Part Three* presents the findings of the evaluation on two aspects: status of the PHRP I agenda highlighting accomplishments and non-accomplishment of agenda, and strengths and weaknesses of the institutional arrangements for the Plan. Finally, in *Part Four*, recommendations are made on how to go about the development and implementation of the next national human rights plan.

## Approach and Methodology

In determining the extent of implementation of the PHRP Action Agenda and in order to derive lessons from its successes and failures, the inquiry areas of the evaluation focused on the following:

- Status of Implementation

The study determined whether targets have been met or not, and the related factors that have affected, positively or negatively, the accomplishment or non-accomplishment of the measures in each sectoral agenda – factors as strategy, timetable, resources, coordination, policies, and implementing processes and principles.

- Linkages of PHRP Action Agenda with other agency plans, the Medium Term Philippine Development Plan, and the National Anti-Poverty Agenda.

Through the examination of relevant agency and national development plans, the assessment looked into opportunities for coordination and collaboration with relevant national and agency development plans.

The study also determined the current operational arrangements between the PHRPI Secretariat and its partner agencies and institutions, and identifies the institutional measures that could further enhance its effectiveness to implement the PHRP. The specific dimensions covered in the study are the following:

- *Key Strategies and Approaches*

These refer to how different agencies and other implementing institutions mainstream human rights into their respective plans in the planning, implementation, and its monitoring stages.

- *Organizational Mechanisms*

These are the processes and mechanisms used to implement the plan and ways by which agencies interface with the CHR and with each other.

- *Resources*

Resources refer to human, funds, implements (e.g. materials), technologies, and support programs that have been made available for the implementation of the PHRP. In addition to adequacy, the project examined the resource and/or capability-augmentation measures that were initiated; and proposed what are needed in view of the efforts to enhance the implementation of the plan.

Key informant interviews were used to collect information from the stakeholders of the plan. The reasons for this are: (i) they are the focal persons in the implementation and monitoring of the PHRP; (ii) they have insights that can be used in pursuing the objectives of the PHRP; and (iii) they can provide an initial sense on how the PHRP has been implemented and realized.

A Key Informant Interview Guide<sup>3</sup> was developed by DAP to help the field interviewers in soliciting the ideas, observations and suggestions of the key informant regarding the institutional arrangements in place for the implementation of the PHRP Action Agenda. The dimensions covered in the interviews include (i) agency profile, strategy, organization, and resources on human rights protection; (ii) PHRP-related initiatives and implementing mechanisms; (iii) role and accomplishments of the SWGs; (iv) linkages of PHRP Action Agenda with other national development plans or agency plans; and (iv) value of PHRP in human rights protection.

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<sup>3</sup> See Annex 1: Key Informant Guide

These interviews were supported by an evaluation matrix<sup>4</sup> which was used to ascertain the status of implementation of the priority action agenda of the vulnerable sector. Respondents were asked to fill out the evaluation matrix by indicating the progress of the PHRP sectoral plan. Progress of each PHRP sectoral plan was reviewed and analyzed by examining the following areas: (i) status of the PHRP Action Agenda (completed, on-going, or not done at all); (ii) agency or group of agencies and organizations responsible for the action agenda; (iii) description of what is currently being done about the agenda; and (iv) relevant factors that have affected positively or negatively, the accomplishment or non-accomplishment of the measures in each sectoral agenda.

The initial results of the study were presented to representatives from the CHR, government and civil society in two (2) workshops in order to validate findings and generate more inputs, comments and suggestions from the stakeholders which have been missed out during the interviews.

## Scope and Limitations of the Study

This study focused on determining the extent of implementation of the PHRP action agenda and an examination of the institutional arrangements that were in place to implement the plan. The study was also limited to the legislative, administrative and programme agenda indicated in the Plan. It did not include an analysis of the parallel efforts agencies in addressing human rights issues and concerns in their respective sectors.

The study team also relied heavily on the interviews with key informants in the conduct of the study. All key informants in the list provided by CHR were interviewed except for those who were not available during the data-gathering or refused to appear on the appointed date of interviews. Hence, the findings of this study were based on the responses of the key informants and secondary data (e.g. reports, newspaper clippings and reference materials from CHR).

The findings were presented to the CHR and the implementing agencies and institutions in two(2) workshops in order to validate the findings and enrich it with outputs from the participants.<sup>5</sup>

Lastly, the evaluation did not cover Volume III, Regional PHRP.

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4 See Annex 2: Evaluation Matrix

5 As part of its methodology, the Internal Validation Workshop was held on December 17, 2002 and the External Validation Workshop held on January 17, 2003. See Annex 3 (Documentation of Workshop Proceedings).

# Overview of the Philippine Human Rights Plan

## Part II

### Human Rights Protection in the Philippines

**H**uman rights are based on respect for dignity and worth of all human beings. Since everyone has common needs and concerns, every person is entitled to enjoy these rights without distinction as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status<sup>6</sup>. These rights are universal, inalienable, indivisible, interrelated and interdependent.

The Philippines has made great strides in terms of promoting and protecting human rights. The creation of an independent Commission on Human Rights in 1987, established a mechanism whereby citizens can report violations on political and civil rights of citizens. The ratification of the Philippines of several treaties such as the Convention on the Rights of the Child in 1990, and Convention on the Elimination of All Forms of Discrimination against Women in 1981 on protecting the rights of various disadvantaged sectors have led to the creation of various mechanisms to promote and addressing their concerns. To date, a number of councils and commissions have been created to oversee the protection of the rights of their respective sectors.

Efforts to uphold and mainstream human rights are evident in the current mechanisms that are in place for the children, women, labor, Muslim and indigenous cultural communities, and senior citizens. These gains have been critical in creating awareness of the rights of the vulnerable sectors and the need to protect those rights, not only in the government sector but among the civil society and private sector as well. Slowly but gaining ground, the efforts of human rights institutions such as the Commission on Human Rights and the Council for the Welfare of Children are mainstreamed in the development efforts of the country.

**Rights-based approach to development.** The strong link between human rights and development is articulated in the Declaration on the Right to Development of 1986 adopted by the UN General Assembly. It recognizes that development is a comprehensive economic, social, cultural and political process and that there are inalienable human rights participate in, contribute to and enjoy economic, social and cultural and political development.

The International Covenant on Social, Economic and Cultural Rights emphasizes human rights as goals of the development efforts. The rights-based approach to development emphasizes the centrality of the human person in the development process.

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<sup>6</sup> From A Basic Handbook for UNDP Staff, p.2

It focuses on raising levels of accountability in the development process by identifying claim-holders and corresponding duty-holders. They take into account the duties of the full range of relevant actors, including individuals, states, local organizations and authorities, private companies, aid donors and international institutions.

Such approaches encourage the development of adequate laws and policies, institutions, administrative procedures and practices, and mechanisms of redress and accountability that can deliver on entitlements, respond to denial and violations and ensure accountability. They call for the translation of universal standards into locally determined benchmarks for measuring process and enhancing accountability.

### **Purpose of a National Human Rights Plan**

**T**he fundamental purpose of a national human rights action plan is to improve the promotion and protection of human rights in a particular country. It does this by placing human rights improvements in the context of public policy, so that governments and communities can endorse human improvements as practical goals, devise programmes to ensure the achievement of those goals, engage all relevant sectors of government and society and allocate sufficient resources. An instrument such as the national plan of action for the protection and promotion of human rights can guide efforts in this area. International organizations have provided a template and benchmarks for a national human rights plan that can be used as a guide by governments (*Handbook, May 2000*).

National human rights plans need to be contextualized within the unique situation of each country and the extent of the efforts that its citizens and government are willing to undertake to promote and protect human. The preparation of national human rights plan needs to take into consideration the institutions and development programs that are already in place to address the concerns of the vulnerable sectors.

### **The Philippine Human Rights Plan (1996-2000)**

**T**he PHRP1 sought to address the protection and promotion of the rights of sixteen vulnerable sectors in society. Through its efforts, the national human rights plan was able to build a broad-based constituency for a national human rights agenda; build a consensus on the issues and concerns on human rights; advocate the promotion and advocacy on human rights in the various instrumentalities of government; empowered the vulnerable sectors to claim their rights; and involve NGOs and the private sector in the promotion and promotion of human rights.

The primary objective of the five-year PHRP (1996-2000) was to develop measures

whereby individuals and sectors of the country are accorded equal treatment under the law. It also aimed to promote equal opportunities and protection for the enjoyment of these rights and participation in the country's political, economic, social and cultural development.<sup>7</sup>

To understand the context of the PHRP, it is necessary to review the parameters that guided its formulation. These parameters<sup>8</sup> are summarized into the following:

- Need for advocacy and consciousness raising with regards to human rights concerns in the Philippines;
- Focus on empowering vulnerable/disadvantaged sectors to voice their concerns and the measures that could address these concerns;
- Encouragement of collaboration among GOs, NGOs and the private sector in addressing the needs of the vulnerable sectors;
- Ensuring consistency of development measures and outputs with international standards and obligations (ensuring that the results of development are consistent with international standards and that the instruments/institutions for development are influences so that their outputs are consistent with international standards).

### **The Sixteen (16) Vulnerable Sectors**

**T**he vulnerable sectors identified in the PHRP1 are similar to those identified internationally to be the most marginalized groups, hence, needing special attention. Protecting these vulnerable groups is the major concern addressed in the plan. Since the marginalized groups are exposed to various difficult challenges, it is important that effective policies and interventions are in place to protect and empower them. The poor and marginalized groups in the Philippines face various risks – temporary and permanent loss of employment, inability to cope with abrupt changes in the prices of basic commodities, illness and physical injury, violence and the lack of peace and order, old age, etc. Occasionally, they are confronted with shocks arising from natural disasters and abrupt swings in the macro-economy. Furthermore, the new economy and greater global integration, while offering opportunities and income growth, also pose risks such as job displacement, income insecurity, widening income disparity, and financial volatility.<sup>9</sup>

<sup>7</sup> Interview with Director Rosette Librea, CHR

<sup>8</sup> PHRPGoals and Objectives

<sup>9</sup> MTPDP 2001-2004

Most of the interventions in the Philippine society are done through sectoral initiatives. The plan used this similar approach in drafting the Philippine Human Rights Sectoral Agenda whereby the legislative, administrative and programme agenda for each sector are identified.<sup>10</sup>



plan covered 13 sectors namely: *Children, Women, Youth, Elderly, Persons with Disabilities, Mentally Disabled, Public Sector Labor, Private Sector Labor, Muslim Communities, Prisoners / Detainees, Internally Displaced Persons, Indigenous Cultural Communities, and Migrant Workers*. However, on January 26, 1996, Memorandum Order No. 335 was issued expanding the coverage of the PHRP to include the Urban Poor, Rural Workers and Informal Labor.

The vulnerable groups or sectors are divided into those with *vulnerability due to disposition* (Women, Children, Youth, Elderly, Indigenous / Cultural Communities, and Muslim); *vulnerability due to external circumstances* (Persons with disabilities, Mentally disabled persons, Prisoners/detainees, Labor Sectors (Private and Public), Internally displaced persons and *Migrant Workers*); and *vulnerability due to poverty/ marginalization* (Urban Poor, Informal Labor (eg. Fisherfolks), and Rural Workers/ Peasants).

## The PHRP1 Planning Process

Immediately after the World Conference in Vienna, the Commission on Human Rights (CHR) received a communication from the UN on the desirability of drawing up a national human rights plan.

The CHR laid down the groundwork for preparations until December 1994 before finally engaging in the participatory stage of the planning. In the preparatory stage, the CHR appropriated a budget for Inter-Agency Collaborative Concerns for the vulnerable and disadvantaged sectors of the country, under the leadership of Chairman Sedfrey A. Ordoñez. The purpose of this inter-agency action is the priming of strategic activities for human rights advocacy in the country. It was supported by the Locally Funded Projects (LFP) of the CHR under its Medium Term Agency Plan.<sup>11</sup>

Hence, the CHR, with very limited budgetary support from the LFP, directed the CHR Regional Offices to conduct consultations with GOs, NGOs and POs nation-wide. In drafting the Regional Action Plans, sectoral consultations, inter-agency meetings, study groups, and secondary data-gathering were simultaneously conducted. During the conduct of the regional planning activities, Former President Fidel V. Ramos issued Memorandum Order No. 258 bolstering the initiatives of the CHR chairman and institutionalized its on-going activities. MO 258 provided for the Establishment of an Inter-Agency Task Force for Strategic Planning and Research for Human Rights Protection.<sup>12</sup>

<sup>10</sup> The *Legislative Measures* include the enactment of laws that will facilitate the promotion and protection of human rights. They also include the amendment or repeal of laws which are not responsive to the human rights concerns of the sectors. The *Administrative Measures* include interventions that promote participation of stakeholders, organization of support groups to reinforce protection and promotion of rights, provision of training and capacity-building programs, and setting up of mechanisms and budgetary support for human rights-related programs and services. The *Programmes of Action* refer to the actions that aim to alleviate the problems identified.

- Expansion of the legal services programs on human rights to cover concerns of all sectors at various levels, e.g. national, regional, provincial, city / municipal, and barangay through

The Inter-Agency Task Force is headed by the Chairman of the Commission of Human Rights with members composed of senior officials representing the following:<sup>12</sup>

- ♦ Office of the President
- ♦ Department of Foreign Affairs
- ♦ Department of Justice
- ♦ Department of Education, Culture, and Sports
- ♦ Supreme Court
- ♦ 2 Representatives from the private sector (one from among the roster of retired justices and one from among NGOs (civil society) involved in human rights advocacy)
- ♦ A youth representative recommended by the Chairman

MO 258 mandates the Inter-Agency Task Force to "undertake strategic planning toward the formulation of a Long Term Philippine Human Rights Plan" linking human rights issues with people empowerment and sustainable development. The Task Force was also responsible to undertake proposals for appropriate measures and proposed legislation for building and enhancing a human rights culture and human rights education initiative with the ASEAN and other countries.<sup>13</sup>

Having an inter-agency task force with GO and NGO composition in place, the sectoral working groups have been organized. Sectoral lead agencies and consultants were identified to enlist membership from GOs, NGOs and POs classified per sector. Hence SWGs for each sector have been identified to facilitate the formulation of the sectoral plans and to monitor the implementation of the PHRP. The results of the regional and national consultations were used as inputs to the Sectoral Plans. The Sectoral Plans were then subjected to critiquing of the task force members.

In recognition of the on-going initiative of the CHR on regional and national planning under the LFP, the Inter-Agency Task Force adopted on March 31, 1995 the Commission's existing planning framework and process, and through multi-sectoral collaboration, formulated the Philippine Human Rights Plan 1996-2000.

On August 21, 1995, representatives of Congress, government agencies, non-government organizations, and people's organizations adopted the PHRP 1996-2000 through a national public hearing. PHRP was then submitted to the Office of the President in September 1995.

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<sup>11</sup> Philippine Human Rights Plan: An Executive Brief, Commission on Human Rights and Inter-Agency Task Force on Strategic Planning and Research for Human Rights Protection.

<sup>12</sup> Memorandum Order No. 258

<sup>13</sup> Ibid

The said memorandum also called for the priming of the implementation of the PHRP which includes authorizing agencies to set aside an amount from their appropriation for 1996 for the said plan and assigning the CHR to oversee and monitor the plan implementation.<sup>14</sup>

## PHRP Structure and Outline<sup>15</sup>

The Sectoral Action Plan on Human Rights is the result of a series of meetings and consultations involving government organizations, non-government organizations, and people's organizations. To ensure the participation of a wide cross section of the populace, the plan was developed through consultations undertaken both at the central and regional levels.

Sectoral Working Consultants representing various sectors identified by the Inter-Agency Task Force were designated by their respective offices and agencies to act as the Task Force's contact persons or coordinators for all other GOs and NGOs involved in the sectors. They are mainly responsible particularly in getting inputs on specific issues and more importantly the identification of legislative, administrative, and programme measures to respond to pressing human rights issues of the various vulnerable and disadvantaged sectors.

The plan of each sector presents the following:

- **Introduction** – This is a brief description of the sector to include population, characteristics, and vulnerability to human rights violations.
- **Human Rights Situation of the Sector** – This is a summary of the current situation of the sector in terms of enjoyment of their human rights as well as issues and concerns affecting their human rights.
- **The Rights of the Sector** – This is a brief description of the rights and freedoms of the vulnerable sector including minimum standards of humane living.
- **Government Response and Private Initiatives** – This is a summary of current programs and projects of the government as well as initiatives of non-government organizations.
- **A Call to National Action** – This is a discussion on measures for *legislative, administrative, and programme of action* to respond to the issues affecting human rights of the sector. (See PHRP Action Agenda by Sector for list of legislative, administrative, and programme measures)

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<sup>14</sup> Philippine Human Rights Plan: An Executive Brief; Commission on Human Rights and Inter-Agency Task Force on Strategic Planning and Research for Human Rights Protection

<sup>15</sup> Philippine Human Rights Plan: Volume II

- **Collaborative Network** – This is a discussion of the coordinative mechanism involving GOs, NGOs, and Pos to implement priority programme to respond to pressing issues and concerns.

## PHRP Implementation

The basic premise in the implementation of the PHRP is people empowerment.<sup>16</sup> This can be gleaned from the manner the plan was prepared. There was a deliberate attempt to mobilize all sectors of the society both at the national and local level. The intention of the plan was to involve as many stakeholders as possible. Since the implementation of the PHRP can't be done by a single agency, agencies responsible for each sectoral agenda were identified.

The implementation of the PHRP entailed the following strategies / measures:<sup>17</sup>

- Institutionalization of the inter-agency task force and sectoral working groups for strategic planning and research for human rights
- Drafting / amending / consolidation of existing proposed bills on human rights affecting all sectors to cover conduct of researches, sectoral consultations, formulation and development of bills, policy advocacy involving public and interest groups
- Establishment of administrative machineries specific to the needs of the sectors to include setting up of inter-agency bodies, people's councils, local support system e.g. Municipal Human Rights Action Centers, network of agencies and other special bodies and missions for implementation and monitoring of policies, programs, and projects
- Development of policies, programs, project on human rights advocacy, trainings, mass-based information dissemination programs, research, inter and intra-sectoral consultations and production of information and education campaign materials
- Conduct of advocacy programs at the national, regional, provincial, city / municipal and barangay levels covering all sectors
- Coordination, monitoring, and evaluation of the national human rights plan involving intra and inter-agency activities, study groups, task forces, special missions, community mobilization, and liaising work with international human rights bodies
- Upgrading of administrative capability of CHR in coordinating and managing inter-agency programs and activities identified in the national human rights plan

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<sup>16</sup> The Human Rights Agenda, Volume 1 June 1996

<sup>17</sup> Source: Planning and Management Office—Commission on Human Rights

establishment of a network of government and private lawyers with corresponding operations and logistical support.

The roles and responsibilities of stakeholders in the PHRP are summarized as follows:<sup>18</sup>

**Co-Convenor (CHR/CIC/PHRP Secretariat).** A Secretariat is necessary to ensure that adequate support is provided to the SWGs in the implementation of the PHRP. Based on M.O. 258, the secretariat functions for the PHRP were handled by CHR. The tasks of the PHRP Secretariat are mainly administrative which include the convening of the SWGs, assisting the SWGs in setting up organization mechanics and in pursuing their legislative advocacy activities. It was also tasked to monitor the progress of the PHRP implementation by requiring lead agencies to submit periodic status reports. Initially, the PHRP secretariat was lodged at the planning and management office of the CHR. In 1996, it was moved to CHR's research and education unit. Coordinators for the SWGs were assigned to follow-up status of PHRP.

**Lead Agency/Sectoral Consultant.** The lead agency through its sectoral consultant is tasked to (i) convene SWG per sector; (ii) coordinate plan implementation and funding under the Agency budget; (iii) initiate, studies, reviews legislative measures; (iv) organize lobby groups; (v) organize education / media; (vi) monitor status / progress of plan implementation; and (vii) manage SWG operations and organization.

**SWGs (Participating GOs, Participating NGOs, Participating POs).** The SWGs are composed of government as well as non-government organizations. Cognizant of the agencies that were already mandated to address the concerns of the 16 vulnerable sectors, the SWGs were tasked to conduct strategic planning and research for human rights. One of their initial tasks was to draft the sectoral agenda based on the issues confronting them. The sectoral agenda which constitute the sectors' commitments to the PHRP range from proposed legislation to establishment of administrative machinery specific to the needs of the sectors. Their tasks include the following:

- Mobilize members of their organization in the pursuit of agenda in the plan (legislative, administrative, programme)
- Participate in study / review / lobby groups
- Participate in implementation of programme measures
- Contribute manpower and funding resources
- Monitor current human rights issues and problems per sector

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<sup>18</sup> Source: Planning and Management Office—Commission on Human Rights

## PHRP Funding Scheme

**R**esources for the PHRP were limited to the formulation stage. The President's Memorandum Order No. 258 allotted One Million Pesos (Php 1,000,000.00) from the President's Contingent Fund to be spent on the groundwork activities of the plan formulation. There was a mention of supplemental funding that may be tapped from the regular budgets of the agency and other sources like the Philippine Amusement and Gaming Corporation (PAGCOR). Unfortunately, the Plan was not explicitly clear on where to get sustained funding for the implementation of the PHRP-related activities.

Memorandum Order 335 mandated participating agencies to apportion part of their budget specifically for the PHRP related activities. However, unlike the Gender and Development funding, there was no mention of fixed percentage to be allotted for it.

Members of the SWGs were expected to implement the PHRP programmes in their respective agencies/organizations using their own resources. Hence, the institutional mechanisms and implements to address the concerns of the 16 vulnerable sectors vary from sector to sector. The Women and Children sectors, for example were way ahead in terms of mechanisms and resources to address their concerns. The Prisoners/Detainees Sector on the other hand, had very limited resources.



## Assessment of the Status of the PHRP Agenda

### Part III

The PHRP is a document that contains detailed measures to address the issues regarding human rights concerns of the 16 vulnerable sectors. These measures constitute the different commitments of responsible agencies of the vulnerable sectors in the form of legislative, administrative and programmes of action. The resources for the implementation of these agenda are either borne by the responsible agencies themselves, the CHR for assistance on legislative measures, or sourced through other means as the PHRP did not have a separate budget for the implementation of the various agenda items. The complete listing of the agenda items per sector is found in Annex 4.

The PHRP1 approaches the promotion and protection of human rights in the Philippines along two axes:

**Compliance with International Treaties and Conventions where the country is a signatory.** These are efforts on instituting legal instruments to ensure that the country adheres to international norms and standards and that violations are properly sanctioned. The Commission on Human Rights is mandated to serve as a fact finding body which, after establishing *prima facie* evidence recommends the filing of cases with the proper court, administrative office or agency. After endorsing or filing, the CHR monitors the status of every case involving human rights violations.<sup>19</sup> It also monitors our compliance to the international treaties on human rights.

Violations are punishable by law. For instance, violation of the rights of the prisoners through torture, intimidation and extra-judicial execution are punishable based on international agreements. Compliance to the international human rights obligations means that we are able to translate them into effective procedures and institutional mechanisms that will promote the welfare of the affected groups.

The country is signatory to a number of international treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of a Child, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or

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<sup>19</sup> CHR's mandate

Punishment. Our compliance to these agreements indicates the extent of how the country recognizes, promotes and enforces internationally recognized rights.

It is not sufficient that countries agree on the policies outlined in the international agreements. Concrete steps must be taken to ensure that these are followed in practice. The PHRP can serve as the government's response by committing concrete steps and domestic actions (e.g. enactment of a new domestic law in conformity to international standards, formation of domestic councils/committees to replicate functions of international bodies, etc) in compliance to these agreements.

**Mainstreaming Human Rights in Development Efforts.** The 1986 Declaration on the Rights to Development of 1986 adopted by the UN General Assembly recognizes that development is a comprehensive economic, social and cultural process and that there are inalienable human rights to participate in, contribute to and enjoy economic, social, cultural and political development. Issues on poverty reduction, participation and representation are some of those included in the PHRP. It advocates a human rights approach in approaching the development process and mainstreams human rights into the development programming efforts of the different agencies and national development frameworks. It focuses on raising levels of accountability in the development process by identifying claim holders (citizens) and duty-bearers (state) and enhancing institutional arrangements by which the rights and obligations of both parties are exercised. It is a development paradigm promoted by human rights institutions and advocates but used by the different sectors and agencies in varying degrees (e.g. The children and women sectors definitely adopt a human rights approach but this has not been well-established in sectors like the urban poor).

The PHRP includes legislative, administrative and programmes of action.<sup>20</sup> The ***legislative measures*** include the enactment of laws that will facilitate the promotion and protection of human rights. They also include the amendment or repeal of laws which are not responsive to the human rights concerns of the sectors. The ***administrative measures*** include interventions that promote participation of stakeholders, organization of support groups to reinforce protection and promotion of rights, provision of training and capacity-building programs, and setting up of mechanisms and budgetary support for human rights-related programs and services. The ***programmes of action*** refer to the actions that aim to alleviate the problems identified. There is however a very thin line between what constitutes administrative measures from the programmes of action.

This section provides an assessment of all the agenda items in the PHRP for all sectors (except for the Regional Agenda) including the non-implementation of some of the agenda items. The sectoral assessments start with the **context of human rights promotion and protection in the sector**, particularly the International Treaties on Human Rights relevant to the sector. The extent that the concerns of the sectors are provided in development plans and programs or the availability of a sectoral plan is also determined including the designation of an agency or an institution

assigned to address the rights of these sectors. This is followed by a **situationer** and the current human rights **initiatives** in the sector. The **accomplishments and non-accomplishments** of the PHRP are discussed against this backdrop. The assessment also includes feedback from representatives of implementing agencies on the formulation of the PHRP agenda, provisions for resources for implementation, the role of the SWGs, and the **perceived value of the PHRP** in implementing the agenda.

A methodology was suggested and approved by stakeholders for assessing the status of the agenda items. The main report includes highlights of the assessment of status but the full documentation of the responses for each of the sectors, including the reasons for non-implementation are found in Annex 5. The last section focuses on the implementing arrangements in the PHRP and how these contributed to the implementation of the plan.

## A. Methodology

**T**he **detailed assessment of the status of the Plan** was based on interviews of key informants from CHR and agencies responsible for the implementation of the agenda. Using a standard key informant guide, key informants from the 16 vulnerable groups were asked to respond to the following inquiry areas: the mandate / role of their organization in the area of human rights protection; specific commitments (legislative, administrative, or program agenda) under the PHRP 1996-2000; status of these commitments; mechanisms to monitor these commitments; resources for PHRP-related activities; membership and participation in the SWGs; linkages of PHRP with other development plans; and issues and concerns on the PHRP implementation. Several respondents from the CHR were also asked to cite their concerns and views regarding the PHRP. This was done to validate or verify some of the issues raised by the sectors.

Key informants were asked on the status of these commitments. Using an evaluation matrix that captured the priority commitments of the implementing agencies<sup>21</sup>, responses on the completion of implementation were Yes (Y), Ongoing (O), No (N), or No Idea (NI). Respondents were also asked to cite issues, concerns or problems they encountered during the implementation of the plan. In filling out the evaluation, the respondents were asked the following:

- **Objectively Verifiable Indicators (OVIs).** In order to monitor the status of an agenda, it is important to identify indicators for each of the sector's commitments in the PHRP. However, it was observed that some of the agenda do not have readily verifiable indicators. In the absence of explicitly specified indicators to monitor the progress of each agenda,

<sup>21</sup> Note here that they were initially asked to prioritize but they indicated that all the items in the PHRP have gone through the process of prioritization.

- indicators were suggested to the sectors during the conduct of the key informant interviews. Indicators that have been identified already by the sectors have been retained and incorporated to those already suggested by DAP. The OVI's selected by the implementing agencies are found in Annex 4.
- **Means of Verification.** If there are objectively verifiable indicators, the means to verify them must be in place. The underlying rationale for this is to test whether an indicator is a valid indicator or not. However, the means of verification is a tricky one. If no means of verification can be found, the indicator is discarded and a new one should be searched for. For the moment, most of the means of indicators seem weak in this aspect.
- **Status.** After establishing the indicators and the means to verify them, the respondents were asked to give an account of the status of the agenda i.e. what is being done or has been done per agenda per type per sector. What has been done or being done is then compared against what was planned or what may be the standards. Thus, this will point out the gaps. However, a twist to this is the attribution to PHRP of independent actions both by agencies, civil society and the private sector. Agencies with their own funds and mandates coincident to the PHRP might not attribute performance to PHRP implementation. This study reiterates that it is not about mandate reviews of respective agencies.
- **Identification of Agency Responsible.** In the implementation of the PHRP, agencies may have to work individually or in cooperation with other agencies. While some agenda seemingly fall under the jurisdiction of the CHR (mainly because of CHR being the secretariat), most of these measures are supposed to be carried out by different bodies and agencies, as indicated in the plan. For the agenda items that involved more than one agency, the roles of each of the responsible agencies were not clearly stated, making it difficult to trace the responsibility and the accountability for accomplishment of each of the agencies. Furthermore, based on the status reports, it was not clear whether inter-agency coordination was followed in practice. The specific institutions or organizations in the private sector and the non-government organizations (NGOs) were not also indicated in the plan but this information was provided by the sectoral working groups. This indicates that some of the role assignments may not be very clear during the plan formulation. What was clear however, was the multi-sectoral responsibility of the SWGs. Another limitation is non-inclusion of all the responsible agencies during the key informant interviews. This gap however, was addressed through the conduct of a validation workshop with the stakeholders. Issues affecting their sectors particularly those that are PHRP related were discussed and deliberated during the workshops. These discussions enriched the data-gathering of the study.

## **B. Status of PHRP Implementation in the 16 Vulnerable Sectors**

The results of the data-gathering are discussed on a per sector basis. The discussion presents the situation of the sectors followed by an account of initiatives undertaken to address these human rights issues. This section simply discusses the status of the PHRP agenda regardless

of the implementing responsibilities of agencies involved. Feedback of key respondents on the plan formulation and implementation are also included in this section.

## Sectors Vulnerable Due To Disposition

**S**ectors which are marginalized because of their disposition include Women, Children, Youth, Elderly, Indigenous Cultural Communities, and Muslim. By their very nature, these groups are exposed to high risks brought about by their limited capacity to cope with the challenges posed by their circumstances. For instance, children and youth are not equipped with the necessary skills which can enable them to access and maximize employment opportunities. Women, most of the time are regarded as the weaker sex. The indigenous cultural communities and Muslims may be at a disadvantaged position because they are ethnically different from the majority.

### Women

**T**he issues for the Women Sector had as basis the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The treaty requires States to grant freedoms and rights to women on same bases as men; to remove social and cultural patterns through education; for states to take active steps to promote advancement of women to make it more positive including referential treatment and integration of equality in all legislation. As mentioned, the monitoring body is Committee on the Elimination of all Form of Discrimination Against Women.

**Situationer.** The agenda emphasized the need to mainstream the gender perspective in the over-all development t process. There are a number of issues for this sector each one struggling to have primary attention namely (i) Non-recognition of women's rights as human rights; (ii) Legal discrimination (stems from the non-recognition); (iii) Multiple burdens (this used to be the double burden); (iv) Unequal access to land (cultural and legal causes); (v) Violence against women (this general issue includes equally grave sub-issues like domestic violence; rape and sexual abuse; militarization; sexual harassment abuses against women overseas contract workers vi) prostitution; (vi) Politics and governance; (vi) Justice and peace and order (it is the women who suffer most in an unjust and conflict-ridden society); (vii) Employment (unequal access to it as well as in promotion, compensation, etc.); (viii) Health (stems from cultural bias); (ix) Education (unequal priority within the family).

Further, the MTPDP observes that there is lack of gender focus in development policies, plans, programs and projects. Hence, it aimed to address women's issues through the development and expansion of schemes to ensure the integration of gender-responsive concerns at all levels and stages of the development planning process. The fulfillment of the rights of the



sector also fall under some provisions which emphasizes the establishment of mechanisms to address the needs of vulnerable groups, especially children, disabled persons, elderly, cultural communities and women in especially disadvantaged circumstances; and the provision of innovative and more responsive center-based and related assistance and protection for women deprived of family care.

The reestablishment of the juvenile and the family courts and the grant of legal capacity to take custody of the child in blatant cases somehow address some of the issues faced by the women. Other issues are addressed in the country's National Anti-Poverty Action Agenda whereby there is provision for "Guaranteed equal access to education, reproductive rights and access to health services, asset ownership and income generation opportunities, and participation in political decision making, ensured freedom from all forms of discrimination, coercion against women at home, in the workplace and the community at large."

With regards to women with disabilities, they may suffer double discrimination - on account of their disabilities and of their womanhood. In similar vein, women belonging to the Muslim or ICC sector may suffer double discrimination (as women and as Muslim or ICC) and if they are disabled may suffer triple discrimination.

**Initiatives.** In the legislative sphere, the basic issue of women's rights (including legal discrimination and multiple burden) was addressed by a number of bills which are still pending in Congress such as the HB 4704 on women empowerment; HB 375 on ensuring equal rights of wives and husbands; HB 33 on women equality and development. Other accomplishments include (i) More active information campaign, increased awareness of female's rights in CARP like equal participation in policy decision making, and (ii) management as well equal access to and control of resources and benefits among male and female beneficiaries of ARCs. There are also equal rights on property/land ownership/access to the government's allocation and disposition of public lands. Further, there are training programs on Violence Against Women and a master-list of women OFWs in Consulates/Embassies which hope to deter VAW for women migrant workers

Specific forms of violence are responded to by combination of legislative and administrative responses. The RA 8972 (Solo Parents Act) was passed and there are other bills still pending in Congress. There is the Anti-Rape Law -expanding definition of rape to amend Art. 335 of the Revised Penal Code. There is a pending HB Nos. 4435/4618 -establishing movement to eradicate rape/abuses mandating the compulsory teaching of self defense/mandating basic self defense to women as well as HB 3075 (expanding the Rape Crisis center) & HB 409 (establishing rape crisis centers). In addition, on-going activities include establishment of sexual harassment school boards. When it comes to women migrant workers, the on-going activities include: bilateral relations w/ other countries on OFWs; selective overseas employment, reduction in women exploitation/abuse among OFWs

To address issues on governance, there are pending HB Nos. 1250 & 2496 in Congress. These are measures to ensure equal opportunities and participation of women in government. Administratively, CSC MO 8 series of 1999 calls for equal representation of women and men in government posts. Since women are also victims of slow disposition of justice, RA 8369 (An Act establishing the Family Courts with exclusive original jurisdiction on cases involving the family, children and women) was passed. This is in response to the need for speedy disposition of justice on cases involving violence against women.



In addition, there is the Gender perspective in Human rights education and an on-going monitoring of international human rights instrument. Others include values education for women, provision of support system for VAW victims, livelihood training programs for women and a task force on gender awareness/sensitivity.

**Status of Implementation.** The National Commission on the Role of Filipino Women is mandated to mainstream the general welfare and rights of women. Hence similar aspirations in the Philippine Development Plan for Women are reflected in the PHRP. The NCRFW together with other agencies/committees like DOLE, CHED, POEA, OWWA and DAR share the responsibility of promoting the rights of women.

Under Legislative type for Women, the approval of the R.A. 8353 (Anti-Rape Law), R.A. 8369 (An act Establishing the Family Courts); RA 8972 on Solo Welfare Parents are some of the sector's accomplishments. Legislative agenda which remain to be implemented include the repeal and amendment of discriminatory laws as well as passage of more laws that will uphold women's rights through provision of health and economic well-being, more employment opportunities and funding for women related interventions. Some efforts are already underway but are still pending in Congress.

Most of the administrative commitments were the tasks of several agencies supposedly working together. Under Administrative type, a majority of the sector's commitments to the PHRP are on-going. These include the first two priority agenda for this type (i) integration of gender perspective in Human rights education, and (ii) implementation of national and international Human rights instrument. The latter has been done through the creation of a task force on protection of women against abuse, exploitation and discrimination.

Under the type Programme of Action, more than half of the agenda are on-going with a few of no significant updates. The NCRFW has already lodged several activities to project positive image of women through regular releases and IEC activities in partnership with the PIA. Advocacy efforts especially on instituting measures to fight sexual harassment have increased through the publication of awareness-raising manual and through increase political participation of women. Other agencies like the DOH, OWWA, CSC, POEA, DAR have worked closely with the NCRFW in these initiatives.

Key respondents partially attribute increased vigilance of NGOs on women's rights through the PHRP. However, issues on the very limited budget allotted for the PHRP activities have been raised. Another concern is the apparent weakness of the SWGs during the implementation stage of the PHRP and the CHR in terms of aggressive advocacy on women's rights. The NCRFW, which is the lead agency for this sector has a framework similar to the PHRP. The Philippine Plan for Gender and Development also contains provisions that ensure protection of women's welfare.

## Children

To protect the rights of the Children Sector, there is the Convention on the Rights of the Child and its Committee on the Rights of the Child dealing with issues over decades

such as: infant mortality deficient health care and limited opportunities for basic education, child exploitation, prostitution, child labor and victims of armed conflict. This led itself to be set into force on September 2, 1990. Its four general principles include (i) Non-discrimination ensuring equality of opportunities; (ii) Best interest of the child as a prime consideration; (iii) Right to life, survival and development includes physical, mental, emotional, cognitive, social and cultural development; and (iv) Free to express opinion taking age and maturity. The rights of the children include free and compulsory education. There is the recognition that the provision of basic education is one of the effective ways to pull people out of poverty.

Other rights include the protection from economic exploitation and sexual abuse; protection from physical and mental harm and neglect; right of disabled child to special treatment and education and protection for children affected by armed conflicts, child prostitution and child pornography. The plight of the Filipino children is spelled out in its regular situational analysis of children and women in the country sponsored by the United Nations Children's Fund.

**Situationer.** The pressing issues for the Children sector are expressed in terms of needs. Foremost is the need for a comprehensive juvenile justice system that is pro-children. Other issues include the need for recognition for children as Zones of peace; there are needs for information, education, communication mechanisms and their relationship to the children's rights; the need for participation of child advocates in legislative activities; the need to mainstream children's concerns into the policy environment; and the need for a balance between cultural/traditional practices and child's rights advocacy. Children are also exposed to different conditions such as hazardous/detrimental occupations as child laborer. There are inadequate mechanisms for monitoring child's rights and protection from violence. Likewise development projects and environmental degradation affect them in more harm as growing up bodies than adults. Then there is the issue of weakening of the family structure which contributes in turn to the neglect of children within the family.

Under the MTPDP, there is mention of the State's intention for the welfare of the Children. However as in all other sectors, they are dispersed among various sections of the plan. Under the MTPDP legislative agenda, there is the provision on the "legal capacity to take custody of child in blatant cases." Other provisions include the (i) establishment of mechanisms to address the needs of vulnerable groups, especially children, disabled persons, elderly, cultural communities and women in especially disadvantaged circumstances; (ii) provision of innovative and more responsive center-based and related assistance and protection for children, women and the elderly deprived of family care."

There are some provisions however that do not explicitly specify which sectors are particularly affected but which may be applicable to this sector, e.g. Reestablishment of the Juvenile and family courts. On the other hand, the National Anti-Poverty Action Agenda's Sectoral Vision Statement envisions the Children Sector to be "healthy and educated, protected from all forms of abuse, exploitation and discrimination and guaranteed the right to actively participate in nation building." While the 20/20 Initiative which concentrates on delivery of basic social services targets children as one of the marginal sectors.

The goals pertaining to delivery of basic social services have been set in quantitatively: (i) Enroll all children in primary school by 2015; (ii) Make progress towards gender equality and empower women by eliminating gender disparities in primary and secondary education by 2005; (iii) Reduce infant mortality and child mortality rates by 2/3 between 1990 and 2015; (iv) Reduce maternal mortality ratios by  $\frac{3}{4}$  for the same period; (v) Provide access for all who need

reproductive health services by 2015 (which is also true with Women sector but it is the child to be borne who suffers non-access to reproductive health.)

**Initiatives.** The passage of RA 8369 (An Act establishing Family Courts) is a response that jibed with the MTPDP as well. The family courts are the specialized ones who deal with domestic matters that affect families. There is also the signing of MOA thru a resolution signed by DSWD, DILG and DECS regarding the inclusion of provision for the non-use of child combatants. This responded to the call for children as Zones of Peace.

Other policy responses to the issues are the Passage of R.A. 8370 or the Children's Television Act of 1997. These respond to relationship of IEC mechanism to child's rights and connected to this are the advocacy and social mobilization programs on child's rights; putting out comprehensive and integrated programs for the socio-legal defense for children: the continuous training programs for project implementation and rehabilitation programs; and the establishment of monitoring and evaluation system for children's rights. The integration of child's rights in the law curriculum is an effort in trying to mainstream child's rights. There are also training modules on child's rights as well as the 5 pillars of the justice systems: police, jail wardens, judges, prosecutors.

**Status of Implementation.** The Plan called for legislative actions to provide funding support for children related activities. However, similar measures are found in the Philippine Plan of Action for Children of the Child 21 espoused by the Council for the Welfare of Children. The CWC, which is an oversight agency looking after the welfare and rights protection of the children works with other agencies like the DSWD and the CSOs in the realization of the legislative, administrative and program of action.

Of the legislative measures proposed in the PHRP, the following have been completed: (i) Legislative action providing for the creation of comprehensive juvenile justice systems, which include Child and Family Courts (ii) Amendment of Article 192 of PD 603 (Child and Youth Welfare Code), and (iii) provision of child-friendly media.

Under Administrative type, a resolution was passed during the National Anti-Poverty Summit in 1996 approved by DSWD, DILG and DECS secretaries together with Sectoral Representatives of the Youth and Student Sector. This is in response to the clamor of the sector to include the non-use of child combatants as part of the agenda of the peace process. Those that remain to be implemented have already been started but have not been completed yet. For instance, early detection, intervention and rehabilitation programs for children are still within discussion level. The sub task forces for the protection and promotion of children are still formulating the Plan, Project and Operation for the inclusion in the Fifth Country program for Children.

Under the type Programme of Action, advocacy and training programs have already been carried out. However, programs for equipping working children which would include modules on developing work ethics, skills development/enhancement, child rights advocacy and counseling are still on-going. Budget constraints, slow advocacy and unwillingness of the LGUs to be involved in the implementation process are just some of the problems encountered by the agencies in this sector.

The respondents of this sector raised the need for more harmonized efforts between stakeholders if the PHRP is to be an effective instrument in the country's over-all human rights work. The lack of coordination was attributed mainly to the irregularity of meetings between agencies. Respondents also pointed the weakness of the CHR as the oversight committee of the Plan. It cited the lack of personnel and lawyers to effectively assist the SWGs. Since the children sector already espoused a rights-based framework in its CHILD 21, human rights promotion is already being done even without the PHRP. However, the PHRP has been effective in raising awareness on children's rights.

## Youth

**Situationer.** The youth sector is subdivided into three: in-school youth; out-of-school youth; and special youth. This sector may share with the issues common to that of the Children Sector. There is the problem of definition between a child and youth not to mention that the youth may be defined differently by both GOs and NGOs.

The main issue faced by this sector is the access to quality and relevant education. However, with the new and continuing challenges posed by certain global trends, this sector has become more vulnerable especially those trapped in armed conflict and those needing special protection. Like the children, several governance issues impinge on the ability of the state and other non-government stakeholders to carry out efforts to meet the needs of this sector.

Under the MTPDP, there is mention of the State's intention for the welfare of the youth. However as in all other sectors, they are dispersed among various sections of the plan. There is no sectoral plan as such. In some provisions, it is lumped with other specified sectors; here if we can place "youth" instead of (children). The MTPDP can be interpreted to specifying the following as addressing the needs of this sector: (i) Establishment of mechanisms to address the needs of vulnerable groups, especially 'children', disabled persons, elderly, cultural communities and women in especially disadvantaged circumstances; and (ii) provision of innovative and more responsive center-based and related assistance and protection for 'children', women and the elderly deprived of family care." Included also is the reestablishment of the Juvenile and family courts as stated under the MTPDP Legislative Agenda.

Quality education, decent livelihood and/or meaningful employment, participation in nation-building, participation in political decision making; ensured freedom from all forms of discrimination are just some of the things included in the National Anti-Poverty Action Agenda's Sectoral Vision Statement For Youth and Students Sector.

The HDN report<sup>22</sup>, also reiterates the need to make education most accessible to the young people. For the Muslim youth on the other hand, education was perceived to be a tool to expose Muslims to the influences of Christian values and ideals through predetermined curricula

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<sup>22</sup> Philippine Human Development Report 2000, Human Development Network-UNDP, 2000 (the report embodies the government and civil-society cooperation-fro. Preface)



at all levels of learning. Hence, while there is merit to promoting basic education in this sector, one must also bear in mind its quality and implication to other marginalized groups such as the ICC. For ICC youth, it is basically the same. They perceive education as historically anchored on the basic premises and aims of colonialism, which was conversion. The cultural-economic aims of colonialism were adopted by the leadership of the Filipino republic.

Accordingly, it is particularly urgent that distinct modules of instruction be developed for the large traditional Muslim communities and for communities of tribal Filipinos (ICC) where the current approach can be said to have failed demonstrably. These communities have been left out of the education system precisely because they cannot be shoe-horned into the iron boot that the system delivers.

**Initiatives.** There was a number of legislation to address issues of the youth. Some of the responses were Enactment of Anti-Hazing Law for in-school youth. For special children, there was the enactment of a law establishing juvenile justice courts and an on-going establishment and strengthening of school systems for IP youth. There were several bills (e.g. HB 141,388,540,539,602,750, 884,1207,1377,1394,1712,1882) particularly in amending PD 803 (Child and Youth Welfare Code) and RA 7600 (Special Protection of Children Law). The Magna Carta for Students has been pushed but so far not yet completed. There are ongoing CHED efforts through the student congresses and school officials to deal with youth student concerns. The National Youth council has come up with a book on the Situation of the Youth in the Philippines (1998). The Council for the Welfare of Children has legally assisted several Sanggunian Kabataan (youth councils) against unjust practices and also facilitated the formulation of the implementing rules and regulations of RA 7600 (above). Through the DILG, CHR and NYC the LGUs are encouraged to develop alternative approaches for reaching out especially to the OSY (out of school youth).

**Status of Implementation.** The Plan primarily called for the review and amendment of laws concerned in the protection of the rights of the sub-groups of this sector. The National Youth Commission together other groups dealing with youth empowerment and protection shared the responsibility in carrying out the commitments stated in the PHRP. While similar issues addressed in the MTPDP were also stated in the PHRP, the latter cited the specifics action to be taken to realize the goals of this sector in the area of human rights promotion.

Apparently, a majority of the legislative agenda have not been implemented because they are still pending in Congress. Only the enactment of anti-hazing law and a law establishing juvenile justice courts and fund appropriation have been accomplished.

The first two prioritized Legislative Agenda (i) legislative studies on strategies to increase youth's access to relevant and quality education, and (ii) the review and amendment of relevant laws concerning rights of specific sub-sectors have not been completed.

It fared much better under Administrative type. The first and second priority agenda (i) strengthening and establishment of school system for youth in difficult circumstance, and (ii) the establishment of implementing and coordinating mechanisms between law and school systems have not been completed yet but are considered to be on-going already.

Under the type Programme of Action, all the agenda have not been implemented yet. The formulation and strengthening of programs providing legal assistance to sub-as well as efforts encouraging LGUs to develop alternative approaches in reaching out to youth have already started but have not been completed yet.

The Plan was viewed basically as a working paper that provided direction to most of the sectors in terms of human rights programming. However, the respondents emphasized the need to increase participation of stakeholders among the sectors to increase the chances of implementing the agenda. CHR was also viewed to be weak in terms of coordinating and monitoring plan implementation. Key respondents also mentioned the need to study each agency's mandate so as to avoid functional overlaps.

## Elderly

To address the needs of this vulnerable sector, the international community came up with the Vienna International Plan of Action of Ageing adopted by the UN General Assembly in 1982. Another is the "Programme of Action adopted by the International Conference on Population and Development" particularly Section VI-C on elderly People in Cairo. In 1991, the GA adopted the UN Principles for Older Persons (namely, independence, participation, care, self-fulfillment and dignity); the Copenhagen Declaration on Social Development and Programme of Action on social Development in the ESCAP Region in Manila in 1994 and later revised by the Fifth Asian and Pacific Ministerial Conference on Social Development in 1997.<sup>23</sup>

The International Covenant of Economic, Social and Cultural Rights has no specific reference to older persons' rights but implied the right to social insurance. Neither is there a reference to discrimination in terms of age as prohibited. Nevertheless, States "are obligated to pay particular attention to promoting and protecting the economic, social and cultural rights of older persons."<sup>24</sup>

**Situationer.** The main issues for the elderly sector include (i) right of elderly persons to reside at home for as long as possible (ii) right to live in environments that are safe and adaptable to personal preferences and changing capacities, and (iii) limited access to health care.

Under the MTPDP, there is mention of the State's intention for the welfare of the ICC. However as in all other sectors, they are dispersed among various sections of the plan. But this sector has its own plan. The Plan for Action for Elderly comes from international and national mandates. The major areas of concern (and respective programs/projects) that were identified in the PHRP include (i) older persons and the family (multi-generational care system, foster care, advocacy for full implementation of RA 7432); (ii) social position of older persons (data building of older persons; leadership in community activities; local and international collaboration; value inculcation on roles and rights of older persons in nation building; capability building); (iii) health and nutrition (service delivery; health promotion/disease prevention; advocacy and social mobilization; human resource development; research; policy development legislation); (iv) housing, transportation and built environment (protection and safety program for older persons; public information and advocacy campaign; group home/foster home for neglected older persons; older

<sup>23</sup> Philippine Plan of Action for Older Persons 1999-2004, DSWD; p. 3; a continuation of such mandate rooting is seen in nos. 3, 4, and 5. (p.4)

<sup>24</sup> TM, p. 155



persons-friendly housing program); (v) income, security, maintenance and employment (advocacy/social marketing/mobilization; system of monitoring and evaluation or RA 7432; IEC campaign; alternative employment/ livelihood program; capability building/HRD; design supplementary income for older persons; research on older persons and livelihood for marginalized older persons; (vi) social services and the community (advocacy, IEC, networking and collaboration; special services; databank of community resources; media exposure of older persons); (vii) continuing education/learning among the older persons (public information/advocacy; education program; life-long education program for ageing preparation); and (viii) older persons and the market (consumer rights and protection program; tri-media advocacy regarding consumer rights of older persons; product development older persons-friendly goods and capability building). On the other hand, the National Anti-poverty Action Agenda Sectoral Vision Statement for Senior Citizens Sector also envisions the "maintained productive capacity and health" of the older persons.

**Initiatives.** The passage of RA 7432, seeks to respond to many issues identified at the formulation of the PHRP. The Act seeks to (i) give certain rights to elderly but highlighted the economic dimension of giving discounts to elderly from business and medical establishments like drug stores; hospitals, recreation; restaurants and resort facilities; transport; etc.; and (ii) obtain certain responsibilities from the elderly like services to the community and the utilization of their expertise in nation building.

However a DAP study for the DSWD reveals that first, the implementation of the second aspect is quite sidelined by the issue of subsidy to the elderly virtually borne by the private sector by the mere absence/ambiguity of refund procedures for the discounts (BIR practices vary from region to region). Like the PHRP, the implementation of RA 7432 is meant to be delivered through inter-agency effort with DSWD as lead agency but it is turning out not to be that way at the local level (and that is where implementation manifests most).

The issues on right to reside at home and for safe environment are responded to by the PHRP implementation by a number of programs notably through increased retirement benefits ; the establishment of elderly group homes and intensification of the provision of technical assistance on Total Family Approach and Self Employed A-Family enterprises. The condition of limited to access on health care is responded to with the establishment of geriatric units complete with trained workers taking care of the elderly. How all these affect the elderly is not taken care of in this study.

**Status of Implementation.** Having a Senior Citizens Act as a legal instrument, the sector called for increased benefits and assistance as reflected in the PHRP agenda. This call was strengthened when the concerns raised in the PHRP were treated in a more comprehensive manner with the formulation of the Philippine Plan of Action for Older People (1999-2004).

None of those legislative agenda committed in the PHRP have been implemented. Main reasons are lack of funds and length of the deliberation in Congress. However, several moves to push for these legislative commitments have already been made. For instance, while the first and second only main agenda are deemed as on-going, some barangay surveys have been conducted in response to the agenda on "enactment of a bill for conduct of barangay survey to find extend of abuses on elderly" The integration of geriatric courses in medical curricula, have not been completed has already been forwarded to CHED for appropriate action.

The administrative agenda are also on-going. The first two as per priority are (i) issuance of Executive orders/memo or Administrative orders so enumerated under this agenda and (ii) the approval by NEDA-Social Development Committee Cabinet level of IRR of RA 7876 (superceded already by Magana Carta for Elderly although said to be 95% sure of approval). The upgrading of special benefits for the elderly has been hampered by lack of resources. While Senior Citizens Care Centers have been established, it is not true for all localities nation-wide. Further, the establishment of geriatric units/wards with trained workers is not feasible given the limited number of geriatricians in the country. There are only a few in PGH and St. Luke's Hospital.

Under the type Programme of Action, almost all of the agenda have been completed. Legal assistance has been provided by the CHR to elderly with HR cases. Technical assistance on devolved programs on Total Family Approach were said to be intensified through DSWD and participating LGUs.

Other issues raised by the key respondents include the lack of an institutionalized monitoring mechanism among members of PHRP-SWG. Feedback from the sector is mainly done thru regular consultations conducted at the regional levels nationwide with DSWD and NFSCAP. The SWG was observed to be very active during the formulation of the HR plan but operations have not sustained in the course of implementation because there were no more follow-up meetings initiated by the CHR. Thru its individual efforts, DSWD worked with NFSCAP in promoting elderly welfare and development including the protection of their rights. Their PHRP commitments have been actually carried into their Philippine Plan for Older Persons (1999-2004) wherein specific strategies have been identified to address similar issues and concerns of the sector.

## Indigenous Cultural Communities (ICC)

**T**he International Convention on the Elimination of all Forms of Racial Discrimination includes a sub-commission on Prevention of Discrimination and Protection of Minorities. Under its Article I, racial discrimination is defined in broad terms: distinction, exclusion, restrictions or preference based on race, color, descent, national or ethnic origin with purpose or effect nullify or impair the recognition, enjoyment or exercise, on an equal footing of human rights in public life, political, economic, social or cultural life. Overseeing this is the Committee on the Elimination of all Forms of Racial Discrimination.

The World Conference on Human Rights of June 1993 and the International Decade for the World's Indigenous People (1995-2004) proclaimed by General Assembly has three objectives: (i) declaration on the rights of indigenous peoples; (ii) institutional mechanism (permanent forum) for the participation of Indigenous Peoples in the work; and (iii) strengthen international cooperation for the solution of problems faced in areas like environment, development, education and health. Aside from the forum, there are capacity building, fellowship programs and travel grants, including media network. There is also a working group on Indigenous Populations and a voluntary fund for Indigenous Populations.

For minorities in general (which would include non-indigenous peoples as well) there is the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This and an interagency working group address the special rights of minorities. There is also the Third Decade to Combat Racism and Racial Discrimination beginning 1993.

**Situationer.** Ancestral domain refers to the whole presumed ICC traditional geographical context which would include land, coastal waters, rivers and lakes, forest and mountains, which have been part of their culture and are integral to their very existence. While ancestral lands in the beginning also got entangled with the idea of ownership, ancestral domain is a communal concept. The secondary issues of massive displacement and dispossession of ICCs stem from the basic ancestral domain issue. The cultural majority legal framework of placing ownership in terms of either private lands or state lands opens the gate to such massive displacement and dispossession. By ignorance before, and often times now by choice, the cultural communities do not aspire to get the titles to the land.

Several decades ago, there were calls for socio-political integration into the national mainstream mostly from segments of the cultural majority who find alarm at the maltreatment of ICC. There were several moves to do away with such strategy, but the issue remains and is included in those that have to be addressed. Another issue is the call for self determination of the ICCs. This is often attached to the call for federalism, an idea greatly favored by the Muslim sector. Other issues include illiteracy, insufficiency of basic social service, and insufficiency of social infrastructure support services.

There is no sectoral plan for the ICCs. The National Anti-poverty Action Agenda also recognizes the need to protect ancestral domain rights; and to promote enhancement of indigenous knowledge, systems and practices as well as freedom from discrimination. On the other hand, the MTPDP mentions the State's intention to protect the welfare of the ICC. They are dispersed among various sections of the plan. These include to (i) provision of safeguards on the fundamental rights of cultural communities on ancestral domain; (ii) management of resources in an environmentally responsible manner; (iii) affirmation and enforcement of ancestral land rights and the right of indigenous communities to develop their ancestral domain using sustainable land management practices; (iv) preservation and enhancement of the culture and traditions of the cultural communities; and (v) strengthening of local tribal institutions as alternative structures for local governance, social justice and promotion of peace. Similarly, in some provisions, the ICC is lumped along with other specified sectors so long as the mechanisms to address the needs of vulnerable groups have been established. There are also some provisions not specifying which sectors are particularly affected but which may be applicable to this sector like the organization and strengthening of the people's law enforcement boards, and reduction in the incidence of human rights abuses, promote people's rights granted under international treaties and conventions and provide timely and adequate legal and non-legal interventions and assistance to victims of human rights abuses.

**Initiatives.** Much was expected from the passage of the Indigenous People Rights Act (IPRA). The agenda constructed in the plan clearly steered away from too much on Programme of Action but instead concentrated on policy laying. The IPRA hopes to address many things connected with ancestral domain: recognition and adoption of indigenous systems of customary laws and tradition (even envisioning codification – which some ICC now oppose as something contrary to the spirit of evolving traditional laws), upholding and protecting the intellectual property rights of ICCs (banning bio-prospecting and bio-piracy in the ancestral domain); and creation of tribal councils.

With regards to socio-political integration into the national mainstream, the inclusion of ICCs in the planning, policy making, and implementation and evaluation of plans affecting them are now provided in the IPRA. The appointment of a sectoral representative for ICC is now

addressed by the party list system but at the local level, such representation already mentioned in the Decentralization Code has not been generally implemented. Research on racial discrimination done by UGAT<sup>25</sup> for UNDP may be included as a response to the issue. The CHR coordinating with the ICC also reports to the UN Center for Human Rights.

The self-determination issue was responded to by the IPRA by giving recognition and promotion of ICC's right to shape its own destiny in accordance with the universally accepted principle of self-determination. Historically, the Cordillera as well as ARMM used to be areas of cultural communities. When autonomy was granted to these regions, several ICC groups except those in Ifugao, refused to be part of the autonomous regions. The IPRA responded to this issue by allowing the ICC to assert its concerns and issues despite the non-inclusion to CAR and ARMM.

On paper therefore, great strides have been made in ensuring that the provisions for the ICCs are included in the IPRA. Likewise, the functions relevant to the ICCs (e.g. issuance of Certificates of Ancestral Domain Claims or the CADC) previously done by the DENR) have been transferred to the NCIP which is the implementing agency. However, the NCIP suffers from lack of funding. Further, instead of assuming all major responsibilities that have a direct impact on the sector, a parallel administrative body in the form of a Task Force directly under the Office of the President made decisions on the CADC. The subsequent effect is the suspension of ancestral domain processing among other functions of the NCIP.

**Status of Implementation.** The PHRP through its legislative commitments primarily aimed to address the long standing concerns of indigenous peoples on the ancestral domains which called for further recognition of their customary laws and practices especially in the advent of major development efforts. commitments and programs of the NCIP (where under the IPRA, promotion and observance of certain rights pertaining to ancestral domains, cultural integrity and self-governance have already been sufficiently raised) these PHRP agenda items were implemented with close coordination with the NCIP and with CWC on the concerns of IP children.

Most of the legislative agenda were completed. Notable are the (i) enactment of ancestral domain bill, and (ii) enactment on law to involve ICCs in the planning, policy and implementation in ancestral domain. Both are embodied in the Indigenous Peoples Rights Act (IPRA). The agenda on educational reforms and transfer of scholarship programs to NCIP are ongoing. The agenda on putting a legal framework for autonomy for ICC outside of the ARMM and CAR has not been initiated.

Under Administrative agenda the provision of assistance to tribal council POs and NGOs has not been implemented due to lack of funds. Other measures are on-going. However, with the approval of IPRA, some of the proposed initiatives have been superseded. One example is the DAO 02 which covers the delineation and recognition of the ancestral domain which is one of the major issues of the ICC.

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<sup>25</sup> National Association of Anthropologists is a professional organization acting like an NGO in relation to advocacy and projects with ICC.



Under the type Programme of Action, of the six agenda, 4 are properly deemed as ongoing but one of which has a completion target ("complete inventory" of ancestral claimants) so that it is here rated as not completed. Also, two of these properly deemed as ongoing are not available in most ICC (loans and legal assistance), leaving only two as completed. It is noteworthy that there is only a few under this type. This may indicate that at the outset there was a great need to laying the foundation (in the form of policies) first for a programme of action so that strategically it was not advisable to have so many programme of action. One of two Program of Action priorities has been accomplished (advocacy program mainly leading to passage of IPRA) but the second agendum priority (the one that land use classification survey for the ancestral domain) has not been carried out.<sup>26</sup>

The respondents mentioned that the CHR was unable to provide clear guidelines on how to program the human rights concerns in their particular sector. The respondents to the key informants interview sees the PHRP as helping in providing legitimacy to the causes of the IP s and a reminder to the agencies on what they should be doing to protect their rights. Problems in implementation are on the availability of resources for programs that involved inter-agency cooperation or those that were outside what were regularly done by the implementing agency. Another respondent mentioned that more needs to be done in harmonizing the efforts of the GOs, NGOs and POs.

## Muslims

**Situationer.** As in the case of the ICC, the main issue of the Muslim sector is the intrusion into and encroachment of their ancestral domain. Along with this are the ecological aggression and exploitation of natural resources detrimental to livelihood opportunities. Secondary issues are police brutality and extortion, discrimination for equal trade opportunities against Muslim traders, violation of custodial investigation procedure, militarization and attendant issues like illegal arrest and detention, massacre, harassment and involuntary disappearances. Another consequence of encroachment is desecration of mosques and other places of worship.<sup>27</sup>

Tertiary issues would be irresponsible media practice on the abusive use of the word "Muslim" in reports; imprudence of government official in referring to Muslims, and discriminatory practices in employment and education. Others include deprivation of equal participation in the tri-media, lack of proper Muslim representation in various government organizations and inequality of Muslim women's access to employment and promotion. Curtailment of religious rights of Muslims such as right to organization, wearing of proper Islamic attires in schools, lack of provisions for prayer were also cited as some of the pressing issues.

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<sup>26</sup> It may be mentioned however, that this is a national malady. Only a few areas have this and for them as well as for those not having them, there is still a crying need for a National Land Use Plan.

<sup>27</sup> which from the point of view of adherents is a primary issue

Since the Muslim sector takes on ICC sector characteristics, the MTPDP for ICC may be applicable to as well. Under the MTPDP, the Muslim sector is one of the few sectors not directly mentioned. Nevertheless the sector may have been clustered as part of the ICCs. Considering that "Muslim sector" is part of the cultural communities in the MTPDP, provisions to ensure that their rights are protected include safeguards on the rights to ancestral domain; enforcement of ancestral land rights and use of sustainable land management practices; rights to preserve culture and tradition, among others. Similarly, provisions which state the establishment of mechanisms to address the needs of vulnerable groups especially during disadvantaged circumstances generally, although vaguely, address the rights of the Muslim sector. International laws on the Indigenous Cultural Communities are also applicable in the Muslim sector.

**Initiatives.** The primary issues of intrusion, encroachment and ecological aggression were hoped to be addressed by the creation of council for ICC. It must be noted that the Muslim group belonged to the council at the onset of PHRP to advise President on policies these communities. This was considered as an accomplishment for the entire ICC extending to the Muslim sector.<sup>28</sup>

The administrative accomplishments include enforcement of investigation, prosecution and dismissal of law enforcers found guilty of harassing Muslim entrepreneurs through a MOA between NCR Police Office and the Office of Muslim Affairs and the Muslim community. This might also be said to respond to violation of custodial investigation procedure. Regarding the militarization attendant to armed conflict, there was the creation of the Human Rights Center in the Muslim areas to monitor violation and protect rights. This would take care of other subsidiary matters like harassment of witnesses to incidents involving human rights violations and desecration of mosques. Further, to address irresponsible media practices, a series of seminars were held to educate them about Islam. This was part of the Program of Action. CHR has also issued a resolution prohibiting the use of the word "Muslim" in a derogatory manner. DECS has issued Department Order. no. 26 which allows for students not to take religion class.

**Status of Implementation of PHRP Agenda.** This sector's commitments in the PHRP were mostly on legislative measures to repeal or create laws that will allow for more participation of Muslims in the policy-making process among others. The PHRP aimed among others, to increase sectoral representatives in bodies essential in the promotion of the rights of the Muslim community (e.g. NEDA, Congress, etc.). Most of the commitments are carried out by the Office of the Muslim Affairs as the major partner agency of the CHR for the Muslim Sector. The Muslim sector agenda of the PHRP are not exclusively human rights issues but also include other issues affecting the Muslim community. (e.g. NEDA, Congress, etc.). Most of the commitments are carried out by the Office of the Muslim Affairs as the major partner agency of the CHR for the Muslim Sector. The Muslim sector agenda of the PHRP are not exclusively human rights issues but also include other issues affecting the Muslim community.

The completed agenda were on the amendments of Revised Penal Code (i) to use "Muslim" as derogatory manner, and (ii) on violations of places of worship. Another which can be

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<sup>28</sup> But OMA is a different office, although it was contemplated earlier to be part of the merged NCIP from the ONCC and OSCC. As recalled in the internal validation workshop, the representative from the Muslim sector asserted to be a separate sector from the ICC.



considered as applicable to Muslims is part of the seven sub-agenda under the main agendum of Proposed Bills Refilling - the creation of Council for ICC incorporated under NCIP.

Under Administrative type, some of the administrative ones which have not been completed do not seem problematic in so far as resources are concerned (e.g. provision of prayer rooms in public establishments or integration of Muslim customs in MTRCB, TV guidelines). However, there was question as to why the first two priority Administrative agenda have not been completed. These are: appointment of Muslim representatives to various government bodies and Muslim sectoral representatives to Congress.

Under the type Programme of Action, there has been no perceived completion on activities like holding of series of seminars or information drive or involvement of OMA in peace and order councils in every region outside ARMM. One agendum (OMA to be involved in custodial investigations involving Muslims) has no updates and is the one that may not have been completely accomplished. Respondents mentioned that they were not clear on how to program the human rights concerns in the Muslim Sectors and that the PHRP agenda included non-human rights and related issued. The respondents place their hope that the CHR will be taken seriously by the agencies that are being monitored for the agenda items. OMA did not commit funds for the PHRP since their budget is only sufficient for the personnel salaries. After the year 2000, the SWG became inactive.

### **Sectors Vulnerable Due To External Circumstances**

Sectors belonging to this group are the Persons with Disabilities, Internally Displaced Persons, Mentally Disabled Persons, Prisoners/Detainees, Private Sector Labor and Public Sector Labor. Their vulnerability springs from their state of affairs. Prisoners, internally displaced persons, individuals with disabilities and those who are mentally-illed suffer largely from maltreatment, stigma and social exclusion as a result of a duly recognized physical or mental impairment and/or natural or man-made tragedy. Often their rights to a decent life are violated. Further, prospects of accessing economic opportunities as well as enjoying social acceptance are reduced significantly. On the other hand, the labor sectors suffer from discriminatory and prohibitive regulations which lead to ill-treatment and exploitation in the workplace. These issues, among others, are the targets of the commitments cited in the PHRP.

### **Persons with Disabilities**

Much has been said about this sector in the international agreements. For instance, the World Programme of Action concerning Disabled Persons and the UN Decade of Disabled Persons strongly stated that the "disability is closely linked to economic and social factors." The Committee on Economic, Social and Cultural rights and its preceding working group called upon GA and CHR to monitor, are tasked "to ensure the full enjoyment of the relevant rights by persons with disabilities." The World Programme also provides for a policy framework at

promoting effective measures for prevention of disability, rehabilitation and the realization of the goals of full participation in social life and development and of "equality".

Another instrument additional to the World Programme is the Guidelines for the Establishment and Development of National Coordinating Committees on Disability or similar bodies adopted in 1990; Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care 1991; Standard Rules on the Equalization of Opportunities for Persons with Disabilities 1992 to ensure that all persons with disabilities may exercise the same rights and obligation as others.

**Situationer.** The main issues faced by the sector include the indifferent and marginalized treatment of PWD in the society and poverty leading to problems in access of resources. Among the secondary issues are the limited access to facilities and services taking the example of women PWD to health care, education, vocational training and employment; children with disabilities lead to isolation and rejection; for PWD exclusion from active social and political participation, education and employment. Other issues include social, cultural, economic, environmental and attitudinal barriers prejudicial to PWDS and need for fund-raising activities.

Under the MTPDP, there is mention of the State's intention for the welfare of the Persons with Disabilities. However as in all other sectors, they are dispersed among various sections of the plan. Along with other vulnerable groups, there is the statement on the "strengthening of community-managed interventions for highly vulnerable individuals; families of overseas workers; victims of natural disasters and man-made tragedies such as armed conflicts and structural adjustments; and persons with psychosocial problems arising from familial conflicts."

Similarly, the National Anti-poverty Action Agenda's Sectoral Vision Statement for Persons with Disabilities Sector is guaranteed the 'full participation in and enjoyment of barrier-free and disabled-friendly society by way of integration, equalization of opportunities and inclusively of all facets of society, especially education."

**Initiatives.** The main issues are somehow addressed by such measures as inclusion of the PWD in the party list system, creation of the consultative advisory group and representation in the sub-committees of the NCWDP. The sector is now being represented in Congressional hearings whenever bills concerning PWD are being reviewed. There is also assistance by DOJ for PWD coupled with stricter penalties for human rights violations of PWD.

There are regular consultations with sectoral representatives in the regions, training on the formulation of the project proposals and resource generation as well as other capability building activities. There was also the creation of Disabled Affairs office desks by LGUs to translate national programs into concreted actions. Other initiatives include the conduct of advocacy campaigns and the strict implementation of rules and regulations on the acquisition of permits for fund-raising.

**Status of Implementation.** The PHRP emphasized the need to enforce the guidelines stated in the Magna Carta for the Disabled Persons. The major partner agency is the National Council for the Welfare of Disabled Persons (NCWDP) which is the central authority in the planning and implementation of activities pertaining to the disabled persons. Most of the PHRP agenda are in line with the agency's plans and programs. The DSWD and DOLE are also among those agencies responsible for the agenda items in the PHRP.

Effective implementation guidelines for the enforcement of Magna Carta of Disabled Persons (R.A. 7277) are some of the major legislative measures in the Plan. Regular consultations are now being carried out with sectoral representatives in the sector's attempt to involve the disabled in the review of existing legislation or the formulation of the new one. Other ongoing efforts include formulation of rules and regulations for the effective implementation guidelines for the enforcement of Magna Carta of Disabled Persons (R.A. 7277); conduct of legal studies, provision of tax incentives to schools, universities offering scholarships to persons with disabilities. What has been accomplished so far is the inclusion of the sector in the Party List; Creation of the Consultative Advisory Group through Board Resolution; Representation of the PWDs in the subcommittees of the NCWDP

A majority of the administrative measures have been deemed completed or properly deemed as ongoing. Advocacy campaigns on the inclusion of disability related provisions inclusive of budget by GOs/LGUs in line with the implementation of the Magna Carta have already been done and are still being implemented. Strict implementation of rules and regulations on the acquisition of permits to undertake fund-raising projects for PWDs have also been done to reinforce dignity of disabled persons who fell victims to abusive fund-raising groups.

Regular consultations as spearheaded by the NCPWD and the DSWD have been conducted to identify the gaps and issues for program coordination and policy development. These consultations have been institutionalized as part of the planning, decision-making and policy development processes both at the local and national levels; Organizations of PWDs is being strengthened through the provision of fund and technical support and linkage with resource partners for their programs and projects. Other on-going programs of action that have been reported to be ongoing is the implementation of public education programs in the rural areas where beliefs and attitudes about disability is still influenced by superstitions and myths on eradicating persons with disabilities. Those that have been implemented include the use of media and indigenous means to advocate positive behavior towards the disabled.

## **Mentally Challenged Persons**

**Situationer.** The main issue for the sector is the concern on the growing stigma of mentally challenged among the general public. In cases where there is no stigma, another major concern is the lack of awareness of the conditions of such person and the low priority given to this sector by both the public and private sectors.

The secondary issues are those arising from the main issues. Among them are the sub-standard facilities and services (stemming no doubt from the low priority given to this sector); arbitrary detention and unjust hospitalization (stemming from stigma probably). There are also reports of admission to treatment without psychiatric reports proving to be an arbitrariness to the process of internment. To complicate things, it was observed that the courts are not sensitive to the nature and conditions of the mentally challenged. Often families of detained ones can not be located (afterwards) and this is connected to the fact that there is low acceptance by family and community of the condition of these persons.

Other issues are physical and sexual abuse when confined and under the care of stewards. Connected to care giving are the unusual treatment procedures and reports of patients being subjected to experimentation. After treatment or while being treated, there are unequal opportunities for employment and compensation. This is also true for education opportunities which are more costly and therefore less accessible than the already tight education opportunities for the mentally-abled ones.

The sector is not treated individually in the MTPD neither does it have its own sectoral plan. Nonetheless, the same provision which states the "strengthening of community-managed interventions for highly vulnerable individuals; families of overseas workers; victims of natural disasters and man-made tragedies such as armed conflicts and structural adjustments; and persons with psychosocial problems arising from familial conflicts" can be said to be applicable to this sector in its general sense.

**Initiatives.** The responses under the PHRP consist mainly of a Mental Health program and its integration into the National Objectives for Health under the Department of Health. This is now placed in the degenerative clusters along with such other programs on lifestyle as for cancer, asthma, etc. There are also psychiatric units in general hospitals of the government. Private hospitals and clinics have long ago provided for psychiatric care for the well to do (who can afford more confidential treatment). NGOs have been decrying that state-of-affairs a few years back.

The non-institutional responses are countable. There is the conduct of consultations with stakeholders; the drafting of standards for appropriate medical facilities; the conduct of yearly advocacy programs for healthy lifestyle as a preventive measure; and the conduct of training and programs and modules for patients and families. The effects of these measures can not be quantified from this study.

**Status of Implementation.** The passage of the Mental Health Bill to immediately address the needs of this sector is the primary concern of the agenda. There was also a call to address the budgetary concerns besetting the sectors. Most of the PHRP agenda items fall under the mandate of the DOH-National Center for Mental Health Promotion in coordination with mental health associations. Since the Plan is not very much different from the thrust of the DOH as an organization framework is very similar to those being addressed in the PHRP.

The sector is still pushing for the passage of a Mental Health Bill which was still on first reading. This is supposed to address several issues confronting the sector for being lumped with the concerns of general medicine. For instance, there is need to oversee and organize mental health activities and provide medical insurance for the mentally disabled persons. The Bill also pushes for tax cuts to alleviate the financial burden of the families of the mentally-illed. Similarly, provision of equal opportunities for education and employment will not happen unless the bill is passed. To date, what has been accomplished despite the non-passage of the law is the inclusion of the psychiatric units in the general hospitals of the DOH.

Most administrative measures have been realized. Many of these were done along with the reorganization inside the DOH whose mental health program is currently being reviewed. A nationwide stakeholders workshop was already held; psychiatric facilities in Medical Centers established; Standards for appropriate facilities have been drafted; Passed and implemented an Administrative Order for licensure and regulation of mental health facilities. These are in response



to the call for comprehensive quality assurance for the care of the mentally disabled. Those that remain to be implemented include allocation of monetary incentives to those in the rehabilitation program. So far, there is no development since this is not within the capacity of the DOH.

Under the type Programme of Action, all the four agenda have been accomplished. Several advocacy programs are celebrated such as the Lusog Isip, a yearly advocacy program is celebrated every October; Mental Health Week; campaigns on healthy lifestyle.

The respondent thinks that the objectives of the PHRP in this sector are already captured in the major thrust of the DOH. Further, the plan is not clear on how to incorporate human rights agenda into the existing mandates of the agencies in this sector. However, its value lies on its feature of bringing together different stakeholders, not just the government in the human rights efforts of the sector. However, the harmonized efforts of the GOs and NGOs during the planning stage did not last very long. This may be attributed in part to the vagueness of the working arrangements for the PHRP.

## Prisoners and Detainees

The Prisoners/ Detainees Sector has the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. Its adoption was on 10 December 1984 by General Assembly, a culmination of codification since 1987. Torture is defined as acts inflicting pain or suffering whether physical or mental, for purposes of obtaining confession, or as punishment with acquiescence of public official or persons acting in official capacity. States are to take preventive action such as criminalization of act and laws to promote respect for human rights among public servants for both the victim and the accused. It is required that states' complaints be promptly and impartially investigated when there is reasonable grounds. The monitoring body is the Committee Against Torture. There is also the UN support for victims of torture, and of contemporary forms of slavery.

**Situationer.** The primary issue of this sector is the alleged existence of repressive laws curtailing the right of prisoners/ detainees. International law recognizes that there are certain rights that may be abrogated by States for segments of the population; thus illegal migrants can not have the same rights as legal ones, criminal elements likewise, and so on. Political detainees however are prisoners of their conscience and are afforded more light before international standards.

The secondary issues are consequent but not necessarily determined by the temporary (or permanent as in the case of life-timers) restraints on their freedom. Some of them are (i) Subhuman living and health conditions (ii) insufficient food rations (iii) lack of visitations facilities (iv) lack of separate cells for women and youth offenders (v) physical/moral abuse of prison/jail guards, and (vi) exploitation of inmates by other inmates.

Under the MTPDP, the welfare of the Prisoners/Detainees is one of the few sectors not mentioned. Nevertheless there are some provisions not specifying which sectors are particularly affected but which may be applicable to this sector. For instance, it mentions provisions on organizing and strengthening the people's law enforcement boards and reducing incidence of

human rights abuses, promote people's rights granted under international treaties and conventions and provide timely and adequate legal and non-legal interventions and assistance to victims of human rights abuses.

There is also a mechanism for the State to complain on the non-compliance of another state by first bringing it to the attention of the offending state. Only after this is un-acted upon may the complaining State bring it to the attention of the Committee (IM, 219). Then the Committee offers a friendly solution.

**Initiatives.** Under Administrative agenda, there is regular visitation is now allowed to all jail centers/detention facilities; there is a comprehensive rehabilitation program and adequate support services to selected prisoners; there is also a comprehensive literacy and skills training for prisoners. It is stated that there are adequate medical attention/treatment for mentally disabled prisoners; there are programs that trained/oriented prisoners on human rights protection. There is already a procedure for liberal visitation and communication privileges for prisoners and detainees. There are separate detention cells for women (but not for youth offenders?). There is a more active participation/support from the community in the correction facilities and institutions. In addition, the CHR extends free legal assistance to prisoners; as well as provides continuous training/education on HR protection in the 5 pillar institutions of justice systems: police, jail wardens, judges, prosecutors and social workers

**Status of Implementation.** The PHRP aimed to push for the strict enforcement of existing bills for this sector and for more funding for improved services to prisoners and detainees. Since the Bureau of Corrections is mandated to ensure that the physical, intellectual and spiritual rights of national prisoners are protected, it acted as a major partner in the formulation and implementation of the PHRP. Resource commitments have also been channeled for PHRP related activities since the Bureau's mandate is also for the protection of the basic rights of the prisoners. The BOC worked closely with DILG-Bureau of Jail Management and CHR especially in the area of awareness-raising among prisoners and detainees.

Under Legislative type for Prisoners/Detainees, none of 10 agenda have been accomplished. Several reasons can be cited for this. For instance, the Bureau of Corrections and Bureau of Jail Management and Penology were both not amenable to the integration as proposed in the PHRP. A house resolution regarding the conduct of a serious study commission on death penalty is still pending in Congress. The lack of funds also contributed to the non-accomplishments of these agenda items.

Under Administrative type, the "the national correctional consciousness week" has been implemented and celebrated annually. However, there is still a need for sustained participation of both the GOs and NGOs. Other administrative commitments have not been accomplished because of lack of funds while some like the adoption of enhanced interrogation rules are still pending in Congress.

Under the type Programme of Action, a majority of measures have been completed and while some are still being implemented. Much still needs to be done in increasing support for legislation to integrate the penal system among others.

Issues on sharing resources between agencies of the SWG have been raised during the key informant interviews. Despite these budget constraints, the Plan was still perceived to be effective in harmonizing the efforts of government agencies as well as civil society. However, this



partnership must be strengthened. The weakness of CHR in monitoring the PHRP was also mentioned as one of the primary concerns.

## Private Sector Labor

**Situationer.** There are numerous issues for the private sector labor sector. As stated in the situationer of the PHRP 1, these issues include (i) unrealistic and inappropriate features in certain enforced standards, especially those for occupational safety and health; (ii) policies and laws governing apprenticeship contract labor and other terms of employment need thorough re-examination; (iii) effect of GATT /WTO and trade liberalization policies to private sector labor; (iv) flexibility of work arrangements; (v) child labor exploitation; (vi) non-compliance with safety and health regulations; (vii) lack of organization; (viii) delayed disposition/resolution of labor cases; (ix) anti-union policies of LGU officials in the EPZ; (x) picket- harassment and attacks on workers' assemblies; (xi) prohibition against the unionization of civilian employees in the armed forces, the police and firemen; and (xii) because of limitations on freedom of association, unions have no effective legal defense against union busting the law criminalizing ULP.

There is numerous mention of the State's intention for the welfare of the Private Labor Sector in the MTPDP but they are couched in terms of employment. There is no private sector labor sectoral plan as such. Like those in other sectors, there are some provisions not specifying which sectors are particularly affected but which may be applicable such as (i) protection equipment in workplace; and (ii) some measures on labor and employment.

**Initiatives.** There is the passage of RA 8759 (An Act institutionalizing a National Facilitation Network through PESO) for the unemployment assistance program. There is an on-going amendment process to the Labor Code. There is also the establishment of committees within judicial and quasi-judicial bodies to act on complaints/cases. Also, there are reports of additional personnel within judicial and quasi-judicial bodies to minimize case backlogs. Most of the issues are responded to by attempts at influencing policy through advocacy and lobbying. There are a number of federations of unions which take on the character of vote-blocks that deliver pressure to politicians. They are engaged in the lobbying for more legislative support for the private sector labor sector.

**Status of Implementation.** The PHRP agenda were mostly on legislative action to strengthen and institutionalize mechanisms as vital components of employment and productivity programs. The DOLE has been at the forefront of protecting human rights in terms of legislation. However, even before the formulation of the PHRP, tripartite bodies (Tripartite Industrial Peace Council and Technical Committee on Legislative Matters) have already been formed to address concerns of the sector. Since similar concerns are being addressed in these tripartite bodies, the PHRP reflects the plans and programs of the DOLE when it comes to the private sector labor.

Very few of the legislative agenda have been implemented (only 3 out of the 16). Most of the unimplemented measures are still pending in Congress. For instance, the Act on Labor Subcontracting and amendments to the Apprentice Law are already being reviewed in Congress. Public hearings and consultations as part of the sector's advocacy for the passage of these bills have been done as well. On the other hand, all the administrative agenda have been completed. For instance, two task forces have already been created and additional labor arbiters have been hired to expedite resolution of cases.

Many of those committed under the type Programme of Action have been started already. Information dissemination and implementation of standards and regulations to enhance welfare protection of workers have been started by DOLE. It must be noted that the DOLE is mainly responsible for the programme of action stated in the Plan.

Issues on duplication have been raised since the DOLE and its partner agencies in their tripartite bodies are already discussing issues on workers' rights protection and the means to address them. These are not very different from the ones being addressed in the PHRP. Key respondents cited the need for strengthened advocacy for effective implementation of the PHRP. It was also observed that the CHR's advocacy on human rights particularly those emphasized in the PHRP as well as its increased networking with other agencies are crucial in the effective implementation of the Plan.

## Public Sector Labor

**Situationer.** The primary issues include the opposition to the right to strike for government employees and limited coverage of collective negotiations including management interference in union matters as well as grave abuse of management discretion. Job evaluation and qualification standards are not reflective of the capability, efficiency and performance of the employees.

The secondary issues among others are the absence of human rights advocate office, absence of a standardized retirement scheme for government employees, non-involvement of rank and files and accredited union in the selection of the resident ombudsman as well as non representation of unions in the Public Sector Labor Management Council.

The tertiary issues on the other hand are the non-passage of civil service code and the related absence of a governing law for government employees. There is also the growing concerns on the effects of privatization, prohibition from partisan political activities; disregard for CSC decisions by head of agencies, abuse of local authority (given by the Local Government Code); and non-participation in structural adjustments programs.

Under the MTPDP, the welfare of the ICC was specifically mentioned. Specific to this is the promotion of professional and other employee associations to further promote the welfare of government personnel; setting up of equality advocates (EQUADS) in all government offices to address gender-related issues and concerns. However, there are some provisions which did not specify which sectors are particularly affected but which may be applicable to this sector. An example is the "improvement of peace and order, law enforcement and administration of justice through concerted provision of managerial skills."

**Initiatives.** Many of the issues will be addressed with the passage of the Civil Service Code but this has not been completed. However, some initiatives are reported to be ongoing including: implementation of the salary adjustment; accreditation of trainings related to human resource; and incorporation of human rights concepts in the CSC HRD programs.

**Status of Implementation.** The Plan was mostly on legislative measures necessary to push for the formulation, repeal or full implementation of policies and guidelines necessary to uphold the rights of public servants. Most of the PHRP commitments are being carried out by the Civil Service Commission (in coordination with the CHR) being the central personnel agency active especially in labor disputes. It is not surprising that most commitments are borne by this agency.

Under Legislative type, the table shows that for Public Sector Labor, the lone legislative agenda which calls for the passage of the Civil Service Code has not been completed. Since all the other sub-agenda are dependent on the passage of the bill, these have not been accomplished as well.

The administrative agenda aim to formulate factual situations which can be considered as grave abuse of management prerogative to be presented during one of the monthly meetings with Undersecretaries/Assistant Secretaries. This is still on-going. To date, the grave abuse of management prerogative remains to be well-defined. Efforts to draft the guidelines are already underway. Further, the sector's call for a memorandum of agreement between CHR and agency heads institutionalizing the Human Rights Advocate Officer in every agency did not happen yet. Since the CHR is still in its reorganization process, HR advocates have not been named yet. Push for amendments in existing laws is continuing as well. There is no Programme of Action for this sector in the PHRP.

The respondent feels that a plan such as the PHRP can set a common direction for the human rights efforts in the country. However, there is the need to strengthen monitoring by submitting regular reports and establishing a good data-base. The importance of tracking compliance and non-compliance of the agencies tasked to deliver these commitments has been raised.

## Internally Displaced Persons

The UN's Committee on Economic, Social and Cultural Rights is aware that "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."<sup>29</sup> This is also true for the victims of internal armed conflict as well. 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." General comment 16 of the Human Rights Committee

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<sup>29</sup> TM, p. 162

observes "that interference with a person's home can only take place in cases envisaged by the law."<sup>30</sup>

**Situationer.** The paramount issue for this sector is the displacement due to what is called as militarization as well as other factors like intrusion by multinational corporations and big business agricultural ventures such as plantations; development and infrastructure projects such as dams; armed conflict most of all including insurgency and counterinsurgency operations; and development aggression. It was reported that in the name of development, people are moved out. Not to be omitted are those displacement due to natural disasters and calamities.

Consequent to the paramount issues are secondary issues revolving around survival during periods of dislocation (needs for basic needs and peace and order). Additionally, there are what can also be termed as tertiary issues like concerns on relief and social mitigation as well as the planning, implementation and evaluation of rehabilitation project for damaged areas and their monitoring. Among the social mitigation was the provision of non-formal educational opportunities to displaced families.

Under the MTPDP, the State's intention for the welfare of the Internally Displaced Persons has been mentioned. They are dispersed among various sections of the plan: (i) Implement an effective program for the speedy rehabilitation of victims of natural calamities; (ii) Improve the coordination and responsiveness of disaster management, resettlement, and rehabilitation programs; (iii) Develop community-based disaster preparedness programs by strengthening the Disaster Coordinating Councils and similar community organization; and (iv) Enhance disaster management through public, relief, rehabilitation, and conduct studies on disaster risk mapping, damage assessment and socioeconomic impact. Other provisions mentioned the strengthening of community-managed interventions for highly vulnerable individuals; families of overseas workers; victims of natural disasters and man-made tragedies such as armed conflicts and structural adjustments; and persons with psychosocial problems arising from familial conflicts.<sup>31</sup>

The National Anti-poverty Action Agenda Sectoral Vision Statement for Victims of Disasters and Calamities Sector cited the increased capability to cope with hazards, guaranteed access to timely and appropriate measures, basic necessities and services giving priority to the most vulnerable groups; and considered partners in culturally sensitized planning, implementation and management of rehabilitation programs.

**Initiatives.** The PHRP's response to address the primary issues is the move for the eventual repeal of Presidential Decree 1866 which made the crime of illegal possession of firearms in furtherance of rebellion or subversion (repeal through RA 8294 on June 6, 1977). To address the secondary issues of survival during dislocation<sup>32</sup>, the response was the allocation of additional budget for disaster preparedness, relief and rehabilitation needs of internally displaced persons. This actually forms part of the regular work of DSWD.

<sup>30</sup> TM, p. 163

<sup>31</sup> In 1.5.2 Human Resource Development and Nation Building

<sup>32</sup> But there is no doubt survival is of prime importance from the point of view of victims



Survival after displacement was sought to be addressed by provision of low cost housing and by awarding of resettlement areas complete with basic service and facilities as well as access to livelihood opportunities. This is part of the tasks of the DSWD through its Emergency Shelter Assistance and Core Shelter assistance program for Victims of Displacement.

**Status of Implementation.** The PHRP primarily called for the repeal of repressive laws and for immediate action to stop intensive and destructive military operations. Further, it aimed to get more funding especially for the relief and rehabilitation needs of the affected population. Most of the agenda in the PHRP form part of the regular work of the DSWD which was handled by the Bureau of Emergency Assistance. Resource commitments are basically from the regular budget of the agency and from the Quick Response Fund of the Office of the President. In the implementation of these measures, the DSWD sought the assistance of its regular network of NGOs.

Under the Legislative Agenda, only the repeal of the PD 1866 has been completed. The four other additional agenda for Legislative type revealed no updates on their status. The agenda on the ratification of resolution banning use of landmines has been ratified and was therefore considered as completed. It must be noted that the first two priority legislative agenda call on the (i) the abolition of para-military groups, and (ii) the repeal of all repressive laws and executive orders have not been completed nor properly deemed as ongoing.

Under Administrative type, the first two priority agenda are ongoing. One is the allocation of budget for rehabilitation among others and the second is the provision of low cost housing. The third agenda which has not been completed is the one calling for compensation for internal refugees. It has no specific compensation but there is material and housing assistance which was accepted as compensation.

Regarding the Programme of Action, only the agenda which cites 'strong coordination of agencies' was reported to be on-going. The first two priority agenda have not been completed, and these are: (i) immediate stop to military operations that affect civilians; and (ii) accounting for and compensation for human rights victims. Since there is no specific compensation terms, material and housing assistance pass for damage compensation.

The respondent was not aware how the agenda for the sector was formulated. Part of the regular budget of the DSWD goes to Disaster Funds as well as the Quick Response Fund from the Office of the President. The meetings of the SWG are not regular and occur only in cases of conflicts and disasters. While currently there are no SWGs conducted, the DSWD continues with its regular work of providing assistance to the displaced sectors. The PHRP is symbolic in the sense that it provides recognition of the needs of the sector. However, even without the PHRP, the DSWD as part of its mandate will continue in providing assistance to the displaced persons.

## Migrant Workers

For migrant workers, there is the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families where a vast number are uninformed and ill prepared. Adopted by General Assembly 18 December 1990, it will be enforced on ratification of 20 states (only 12 so far). Accordingly,

migrant workers are supposed to enjoy rights throughout the migration process which includes the preparation for migration, transit, stay and return to their state of origin or habitual residence. Migrant workers are also entitled to working conditions equivalent to workers of host states including right to join union, to social security, emergency healthcare. States are required to establish policies on migration covering migrant workers and their families. These policies must be able to distinguish legal and illegal migrant workers and adopt measures to resolve these problems. The aim is not to require *equal treatment to illegal workers but to eliminate illegal and clandestine movements and employment of migrant workers in an irregular situation*. There is also the ICM or International Organization for Migration as well as the ILO or International Labor Organization which can offer assistance in these matters.

**Situationer.** The foremost issue in this sector is the social cost of migration to both the migrant workers and to their loved ones. Family members get separated; newly found resources are squandered by those left behind; infidelity; stress in working in unfamiliar culture and environment; and trauma when migrant workers run afoul of local laws and customs, etc.

Other issues still related to the above include the rise of on-site welfare cases reported to the Overseas Workers Welfare Administration. These are cases of maltreatment and physical abuse like rape and sexual harassment; mental cases arising from such stresses as these; health problems; violation of contract or contract substitutions, delayed or non-payment of salaries as well as poor working condition, unwanted pregnancies and repatriation of remains of the dead. There is also the problem of illegal status of several migrant workers.

Under the MTPDP, there is mention of the State's intention to protect the welfare of the Migrant Workers. The plan under its legislative agenda for example, strongly cites the "amending of labor code imposing joint solidarity liability of the employer or principal and the agency in recruitment agencies, monetary required to offend parties in illegal recruitment case." Other provisions mention the "strengthening of community-managed interventions for highly vulnerable individuals; families of overseas workers; victims of natural disasters and man-made tragedies such as armed conflicts and structural adjustments; and persons with psychosocial problems arising from familial conflicts:"

Similarly, the National Anti-Poverty Action Agenda's Sectoral Vision Statement for Workers in the Formal Sector and Migrant workers account for the migrant workers to be "vested with greater social protection and benefits and wider collective bargaining power and opportunities in the labor market, with guaranteed rights to self organization, security of tenure and decent wages."

**Initiatives.** The PHRP accomplished certain agenda which responded to some of the issues above. There are guidelines and procedures on legal migrants' assistance so that migrant workers have legal recourse as protection in their stay abroad. How these work out in actual practice is something to ponder when reading or hearing reports about the plight of migrant workers. There are labor assistance centers in some international airports and seaports. There is also a witness protection program for migrant worker affairs. With regards to the violation of contracts, the DOJ used to have a one stop office at POEA but to date; this is left to local prosecutors. There is also an anti-illegal recruitment division set up at the National Bureau of Investigation and 24-hour information center at POEA. There is also the establishment of the office of the Legal Assistance for Migrant workers at Department of Foreign Affairs. The Filipino Workers' Resource Center and the Migrants Advisory and Information Network have also been established. Again how these mechanisms work out in practice for legal migrant workers can not



be gauged from the present study. There is no saying how illegal migrant workers who may be victims of illegal recruiters manage.

It is difficult to ascertain whether the social costs of migrant workers have been addressed by such mechanism which seems to concentrate on the legal aspects. The interviews reveal only limited response (mostly concentrating on anti-illegal recruitment) when in fact even legally recruited workers are vulnerable as well to social costs as enumerated in the issues above.

**Status of Implementation.** The PHRP aimed to put in place mechanisms that will help protect victims of human rights violations such as action desks, revival of witness protection program and continuous awareness campaigns against illegal recruiters. Much of the work was done in coordination with POEA, a major partner of CHR in PHRP. Several agencies such as the DOJ, DFA pursued preventive and corrective measures to ensure that the rights of the migrant workers are protected.

One of the major accomplishments of the sector under its Legislative Agenda is the passage of the Absentee Voting. There is also the creation of Anti-Illegal recruitment Action Desks in every city/province and providing personnel position and funds. Concerns of illegal recruitment are lodged in the regional officers/centers of POEA nation-wide. On-going measures include a comprehensive employment strategy to hasten creation of jobs in the country. Another proposal that remain to be completed is the appropriation of fund to fight illegal recruitment.

Most of the administrative measures involve two or more agencies from this sector. Most of the administrative agenda have been completed such as the implementation of the witness protection program for victims of illegal recruitment. Labor assistance centers have also been installed in some international airports and seaports as a measure to tighten departure checks of tourist workers. The designation of special courts to hear illegal recruitment cases exclusively, has been denied by the Supreme Court as they can be heard by special courts on heinous crimes.

The sector has accomplished all the Programme of Action it has specified in the Plan. However, these measures are also reported to be a continuing intervention. For instance, there is a Filipino Workers Resource Center in countries like Japan, HongKong and Saudi Arabia. More resource centers are still being established in other countries. Pursuant to RA 8042 (Migrant Workers and Overseas Filipinos Act), selective deployment is now being observed to ensure that workers are sent to countries that have migrant friendly policies.

Respondent from POEA (the lead agency) thinks that the value of the plan lies on its ability to create consciousness of the government to protect the rights of the people. It also signals to receiving countries that we have a systematic way of upholding the rights of the vulnerable sectors specifically the migrant workers.

Interviews also revealed the apparent weakness of the CHR in its monitoring of the plan and the CHR's limited tie-ups with government agencies. Efforts of the government agencies tasked to deliver the PHRP commitments should be complemented with the concerted efforts of the SWGs.

Lastly, the respondent mentioned that they did not have clear guidelines on how to incorporate human rights in their agency plans.

## Sector vulnerable Due To Poverty / Marginalization

Urban Poor, Informal Labor and Rural Workers are the groups which are marginalized because of poverty. Due to lack of resources, these groups are greatly exposed to certain risks such as poor health conditions, diseases, low standard of living, substandard working conditions, and environmental risks among others. Measures to address these issues are included in the PHRP.

### Urban Poor

**Situationer.** This sector is one of three additional sectors.<sup>33</sup> As such it was not initially included in the Philippine Human Rights Plan by Sector 1996-2000.<sup>34</sup> This document contained among others the situation for the 13 original sectors. However, there is the situationer contained in the Social Reform Agenda at the time of President Ramos (about the same time as PHRP) with the policy instrument in the form of Social Reform and Poverty Alleviation Act of 1997 (RA 8425) and also embodied in the MTPDP. The SRA was transformed into the National Anti-Poverty Action Agenda (the NAAA) with its implementing body called NAPC or National Anti-poverty Commission.<sup>35</sup>

The Estrada administration attempted to pursue poverty eradication program and not merely a poverty alleviation program.<sup>36</sup> The Situationer section of publication, *Erap Para sa Mahihirap* emphasizes “the inequitable access to basic social services especially for the poor, vulnerable and at risk population.” The decriminalization of squatting (RA 8368) is an example of legislative approach for the urban poor. Administrative ones are the National Shelter Program also addressing the urban poor’s condition.

The National Anti-poverty Action Agenda Sectoral Vision Statement for Urban Poor Sector is “guaranteed access to social services, security to land tenure and opportunities for increased income; adequate protection and support against eviction and demolition with entitlement to decent and affordable resettlement.” (p. 39) Under the MTPDP, there is mention of the State’s intention to combat poverty and much by allusion is for the welfare of the Urban Poor. However as in all other sectors, they are dispersed among various sections of the plan. There is no sectoral plan as such and the poor is mentioned without specifying if it is specific to urban or rural poor. In any case, initiatives include: (i) initial preferential treatment given exclusively to the poor should be the only exception from the principle of full cost or market pricing that may be

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<sup>33</sup> By virtue of Memo Order 335, the two others are Rural Workers and Informal Labor sectors

<sup>34</sup> Volume II, first edition, September 1995

<sup>35</sup> *Erap Parap sa Mahihirap*. Breaking Free from Poverty: National Anti-Poverty Action Agenda; NAPC secretariat p.13

<sup>36</sup> <http://www.geocities.com/SiliconValley/Hills/4064/NAPC01.html>

Tolerated;<sup>37</sup> (ii) Poverty Alleviation and Employment Generation; (iii) establishment of resettlement areas and conduct sites and services development, completed housing and medium-rise housing for the underprivileged and homeless populace.” There are other provisions not explicitly specifying this sector but which may be applicable such as the proposed Department of Housing<sup>38</sup>, planning and urban development and decriminalizing squatting under the MTPDP.

The 20/20 Initiative<sup>39</sup> is another plan which addresses the poverty situation. For the Philippines the primary target of 20/20 Initiatives would be to reduce extreme poverty by half between 1990 and 2015. The 20/20 concept had its beginnings in the 1991 Human Development Report of UNDP. In 1995 during the World Summit for Social Development, the Philippines adopted the World Summit on Sustainable Development Declaration and the Programme of Action. The idea is for 20% of ODA and 20% of national budget to be spent for social programme.

The strategic objectives for the Comprehensive Agenda of Action include (i) generation of a high level of commitment and broad based support from government, private sector, civil society and the international donor community; (ii) ensuring steady, predictable and adequate allocation as well as efficient utilization of resources for basic social services; (iii) identifying other financing schemes and innovative measures to augment public resources on the provision of basic social services; (iv) enhancing the quality and effectiveness of delivery of basic social services; and (v) promoting demand-oriented community action on basic social service and make sure that basic social services interventions reflect more closely the circumstances and aspiration at the local level.

**Initiatives.** The Presidential Commission on Urban Poor is unable to commit its budget to PHRP activities. Only a small amount can be used for delivery of services. However, PCUP does its own monitoring of this sector although admittedly there is no standard monitoring system.

For this sector, the enactment of law leading to NAPC was a major achievement although NAPC is not concentrated on the Urban Poor. The Enactment for the Magna Carta for Urban Poor did not push through neither did the creation of the Department of Housing and Urban Development.

To address demolition problems of this sector, there was a proposed memorandum order that the LGU should coordinate with CHR before any action on the matter. There was also an agreement with all concerned inter-agencies with DILG that CHR should be present in pre-demolition meeting. While urban poor representation was strengthened through a sectoral representation for the urban poor at national and local levels. There are also specific guidelines for the awarding of 20% allocation to urban poor in relation to Section 18 of RA 7279. Likewise, there are programs like the Pamilihan for the Urban Poor; productivity workshops, a referral system, research based advocacy, skills inventory and environmental EIC.

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<sup>37</sup> Medium-Term Philippine Development Plan 1993-1998. Manila. Phil, p.8.

<sup>38</sup> Housing: National shelter program 484T units of assistance (45B) period 1987-1992

<sup>39</sup> A comprehensive Agenda of Action for the 21<sup>st</sup> Century, Presidential TF on the 20/20 Initiative

**Status of Implementation of PHRP Agenda.** The PHRP pushed for enactment of the Magna Carta for Urban Poor which was perceived to be the right direction in the promotion and protection of human rights. It also called for other mechanisms to increase access to basic services. To enhance the delivery of basic services to the Urban Poor through accessing of programs and services in terms of livelihood/employment, PHRP agenda were implemented with close coordination with Philippine Commission for Urban Poor (PCUP), NAPC, HUDCC and the DILG.

Under the Legislative agenda, only the enactment of a High Commission on Poverty was accomplished through the creation of NAPC. The enactment of a magna carta for the urban poor and creation of a Department of Housing and Urban Development were not completed yet. It must be worth noting that the Magna Carta for the Urban Poor has not been passed but SWG is working for the refiling.

Under Administrative agenda several memorandum orders have been proposed. The sector was successful in urging the President to allocate funds for the conduct of sectoral election; The PCUP is now also advocating the urban poor in their local boards. Several capability workshops were also conducted in response to the proposed implementation of the 2<sup>nd</sup> and 3<sup>rd</sup> phase of the program, Linking Urban Poor Productivity with the Challenges of a Dynamic Industry and Economy. Despite these accomplishments, some remained undone. For instance, it was reported that the PCUP Referral, Urban Resources Network (URBANET) was launched but the Executive Order was not signed mainly because it was overtaken by change in administration.

Some of the Programmes of Action are not yet completed. An example for this is the call for the strict implementation of the RA 7279 (Balanced Housing Provision of the Urban Development and Housing Act) and its IRR. Further, in response to the request of the PCUP to have a venue to undertake issues on housing rights, an orientation on housing rights has already been held but is still being reviewed by the small functional groups created by the SWG. Very apparent also is the non-accomplishment of the PCUP's proposal to set up a Task Force to monitor demolition cases in cooperation with the civil society. The executive order for this has already been passed to the Office of the President but still needs to be followed up.

The respondents believed that the commitments in the PHRP can be done even without a plan since most of the agenda are already being done by the agencies. However in order to accomplish the proposed measures in the PHRP which by the way are a result of different agencies and associations addressing urban, the CHR needs to strengthen its monitoring arm.

Unlike other SWGs, it considered its SWG to be active but mentioned resource constraints and difficulty of reaching a consensus as pressing concerns. The respondent also expressed that the PCUP cannot commit specific budget (except for allotment for a few meetings) to the PHRP since its budget is for the conduct of its regular work.



## Informal Labor

**Situationer.** This sector is one of three additional sectors.<sup>40</sup> As such it was not initially included in the Philippine Human Rights Plan by Sector 1996-2000.<sup>41</sup> Issues besetting this sector include low productivity; low and uncertain wages and income; lack of social protection; dismal conditions of work; exposure to occupational hazards and health; and harassment from authorities. By the very nature of the operations of this sector, informal workers are very vulnerable and generally exposed to exploitative terms and conditions of work.

There is the situationer contained in the Social Reform Agenda at the time of President Ramos (about the same time as PHRP) with the policy instrument in the form of Social Reform and Poverty Alleviation Act of 1997 (RA 8425) and also embodied in the MTPDP. The SRA was transformed into the National Anti-Poverty Action Agenda (the NAAA) with its implementing body called NAPC or National Anti-poverty Commission.<sup>42</sup>

The Situationer section of the publication, *Erap Para sa Mahihirap*, emphasizes "the inequitable access to basic social services especially for the poor, vulnerable and at risk population." Accordingly, the decriminalization of squatting (RA 8368) is an example of legislative approach for the urban poor. Administrative ones are the National Shelter Program also addressing the urban poor. It makes distinct allusion to the rural poor as well. The majority of the rural poor have been identified to be those engaged in agriculture, forestry and fishery sectors, such as the landless agricultural workers, upland dwellers, artisanal fisher, suggesting that rural poverty is agriculture-driven. In addition, their capability to improve their productive capacity is hindered by the limited rural infrastructure, inadequate access to appropriate technology, and limited access to markets. In addition, there is a strong recognition that the informal sector as most likely to experience poverty as they "thrive on irregular work environment often with lack of occupational safety and no social protection to turn to in times of sickness, accidents and family problems."

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<sup>40</sup> By virtue of Memo Order 335; the two others are Rural Workers and Urban Poor sectors.

<sup>41</sup> Volume II, first edition, September 1995.

<sup>42</sup> *Erap Para sa Mahihirap*. Breaking Free from Poverty: National Anti-Poverty Action Agenda; NAPC secretariat, nd, p.13.



The six main issues enumerated by the Action Agenda include (i) weak political will/institutional failings; (ii) inequitable income distribution; (iii) Inadequate budget for basic social services; (iv) Persistence of cronyism, graft and corruption and proliferation of vices; and (v) need for greater protection and social security of vulnerable group. Similarly, the National Anti-poverty Action Agenda Sectoral Vision Statement for Informal Labor Sector emphasized this sector's rights in terms of "granted access to continuous knowledge, skills, training and upgrading, labor market and/or capital."

Under the MTPDP, the State's intention for the welfare of the Informal Labor Sector has also been mentioned. However as in all other sectors, there is no sectoral plan as such. They are dispersed among various sections of the plan as to (i) expand the coverage of labor policies to include workers in the informal sector; and (ii) develop an entrepreneurial mass base for self-employment and higher productivity. The implementation of business program for rural women micro-entrepreneurs in non-farm enterprises is one of the provisions not specifying which sectors are particularly affected but which may be applicable to this sector.

**Status of Implementation of PHRP Agenda.** The PHRP expanded the advocacy for the need for policies and enforcement of existing programs that will protect the rights and improve the access to services of sectoral sub-groups like the SMEs and home-based workers. Agenda items in the PHRP were first part of the advocacy efforts of the Committee for Informal Sector which was later reorganized into a cluster on Labor and Employment of Bishop-Businessman's Conference. Similar concerns were being addressed by the NAPC which included it as one of the basic sectors. Most of the initiatives in this sector were implemented with close coordination with the DSWD, CHR and CSOs.

Progress of the PHRP agenda are as follows: Under Legislative type, the first 3 priority agenda were shelved. Magna Carta for Home Based Workers and two other agenda (i) on harassment, and (ii) on occupational safety have no updates, which here we are taking (for the moment) to mean not completed. Amendment of the existing implementing rules and regulations of the Labor Code was also implemented. Further, in response to the need for a national secretariat for Informal Workers Sectors, KATINIG, a group of three informal labor subsectors (vendors, small transport workers and homemakers) was formed.

Under Administrative type, most are either completed or are ongoing. Among those completed is the first priority agendum on creation of tripartite cooperation among LGUs, business and informal labor sector. The second priority agendum on the development of framework and data banking on standards of informal labor contribution is properly deemed as ongoing. There was however no agenda for Programme of Action.

The respondents do not see much value in having a PHRP since the assistance for their sector mainly comes from the Department of Labor and Employment. On the formulation of the agenda, the respondent mentioned that there were no clear guidelines on how to go about the plan formulation and that they were asked for their "wish list".

The respondents lamented that there is poor monitoring of the PHRP agenda for their sector and that currently the SWG is not active. Regarding the CHR, they appreciate that there is a constitutional body that recognizes their concerns. They also suggested coordination between the institution handling the plan and the National Anti-Poverty Commission.

## Rural Workers

**Situationer.** This sector is one of three additional sectors. As such it was not initially included in the Philippine Human Rights Plan by Sector 1996-2000. This document contained among others the situation for sectors. The most common concerns of the sectors include insufficiency of employment opportunities, opportunities to influence government policies on issues affecting them and concrete measures to maximize the impact of the governments development efforts.

However, there is the situationer contained in the Social Reform Agenda at the time of President Ramos (about the same time as PHRP) with the policy instrument in the form of Social Reform and Poverty Alleviation Act of 1997 (RA 8425) and also embodied in the MTPDP. The SRA was transformed into the National Anti-Poverty Action Agenda (the NAAA) with its implementing body called NAPC or National Anti-poverty Commission.

The plight of the rural workers may be very similar to that of the urban poor. The Situationer section of the publication 'Erap Para sa Mahihirap' for example, emphasizes the limited and inequitable access to social services of the poor. The majority of the rural poor, which include the rural workers are those engaged in agriculture, forestry and fishery sectors, such as the landless agricultural workers, upland dwellers, artisanal fisher, suggesting that rural poverty is agriculture-driven." It is apparent that their capability to improve their productive capacity is hindered mostly by the limited rural infrastructure, inadequate access to appropriate technology, and limited access to markets.

The National Anti-Poverty Action Agenda's Sectoral Vision Statement for Rural Workers Sector (along with farmers & farm workers) envisions "guaranteed land tenure; asset ownership; access to and accountability for arable lands; access to credit, capital appropriate farm technology and markets" for these groups. While for the fisher folks, it is the "ensured broader access to and accountability for the use and management of aquatic ecosystems as well as access to credit and appropriate technology" that are seen to address pressing issues.

Under the MTPDP, there is mention of the State's intention for the welfare of the Rural Workers. These include the following: (i) Mention of CARP, manpower training, boost farm, off farm and other incomes by promoting agricultural processing and by accelerating the dispersal of industries; and (ii) development of strategies to develop a highly productive agriculture sector that is composed of viable farm enterprises with strong production and marketing linkages w industry."

**Initiatives.** Although the Rural Workers Code and the Fisheries Code were pushed and advocated for (with the cooperation of UP Law Center) and submitted to the DOLE, it is still pending not at Congress but at the Office of the Secretary of DOLE. This is clearly an administrative snag to a legislative aim. The creation of Human Rights Coordinating Councils at all levels (administrative Order no. 339) has not been extended down to local government as high as provincial because of the lack of funds. There was also the conduct island-consultation on the Sectoral agenda in coordination with NAPC-IS basic sector. Various training programs have also been conducted in the sector.

**S**tatus of Implementation. The PHRP cited the need for expanded mandate of the DOLE-Bureau of Rural Workers to improve human rights promotion and protection in the sector. Along with the DOLE-BRW is the ILO Office in Manila to implement these PHRP agenda. Since the PHRP agenda are in line with the agency programs, much of the resource requirements are borne by the agency itself.

Progress of the PHRP as reflected in the reports submitted by DOLE-BRW shows that under Legislative type, none of the agenda have not been completed nor properly deemed as ongoing. The first two priority agenda are the (i) passage of Rural Workers Code; and (ii) expansion of mandates of the Bureau of Rural Workers.

For Administrative measures, the sector proposed the designation of the DOLE-BRW as the responsible office for the marginalized sector creation of Human Rights Coordinating Council at all levels (national, regional, provincial, city, municipality, and barangay). However, it was reported that DOLE's reach does not extend to the provinces. Further the BRW also experiences lack of manpower and financial resources.

Under the type Programme of Action, two of the three agenda have been completed and one properly deemed as ongoing. Assistance in the form of training packages is offered to rural workers for capacity-building. Education is also promoted through training modules.

Issues regarding lack of feedback and regular reporting of PHRP implementation have been raised. The submission of the reports, according to the respondent was more of an agency initiative instead of the regular work of the CHR which houses the PHRP secretariat. The value of the plan for the sector is mainly in the increased awareness on government's direction of protecting the vulnerable groups.

Generally, a number of observations can be made in evaluating the implementation of the PHRP agenda across the sectors. First, most of the agenda items involved inter-agency cooperation as a result of the participatory process employed. With the PHRP, the responsibilities are shared across government agencies and in some instances with the cooperation of the civil society. However, the accomplishments cited in the Plan were mostly government-led and very few were implemented by the NGOs. It can also be noticed that most of the agenda items built on existing HR efforts and form part of the agency programs. And of those implemented, most were training and awareness raising interventions. A close look at the programmes of action that have been undertaken reveals that a significant number were on increasing the awareness of the vulnerable sectors of their rights.

The accomplishments however, did not provide a clear picture of the specific value of the PHRP in addressing the concerns of the sectors. For instance, there is no way to conclude that the conduct of trainings actually increased people's awareness of their rights. Similarly, the passage of a certain bill to promote human rights did not guarantee enforcement. Most of the agenda items also did not have clear target completion dates, clear delineation of roles and responsibilities, and objectively verifiable indicators. All these contributed to the difficulty encountered in monitoring the Plan.

Lastly, not all sectors have adopted a clear human rights framework. The Children and Women sectors are among those which have already mainstreamed human rights in their development planning.

### C. Lessons Gained

From the point of view of mainstreaming human rights in the development process, the following are some of the general lessons that can be derived from the plan implementation:

1. **The PHRP served as a comprehensive document on the human rights situation in the Philippines.** The PHRP 1 is the first document that attempted to present a comprehensive picture of human rights in the country. In spite of the overlaps of the different sectors, the Plan was able to incorporate the broad dimensions of the concerns of the different sectors. This is a good take-off point for the next efforts in HR promotion and protection.
2. **Participatory approach broadened the stakeholdership of the human rights agenda.** The participation of the various stakeholders in the plan preparation and the regional and national presentation and validation workshops were able to create a broad stakeholdership for a national human rights agenda. The process was also able to start the involvement of these sectors in the cause of human rights. Further, acceptance of the Plan was made easy since the stakeholders were heavily consulted.
3. **The Plan promoted a greater awareness of the human rights issues and concerns among the government agencies, non-government organizations, private sector and among the sixteen (16) vulnerable sectors.** A critical factor in the efforts to promote and protect human rights is accurate information on one's rights and the mechanisms by which one can access these rights. The PHRP increased people's awareness on the available venues by which rights can be promoted and protected. The commitments of the agencies indicate what is being done and what still needs to be done in human rights work. With sustained advocacy, the PHRP can support existing national and local efforts to build a culture sensitive to human rights.
4. **The Plan served as an advocacy tool and provided legitimacy to the concerns of disadvantaged sectors.** This is most evident for those sectors whose concerns are subsumed in mandates for a larger sector (e.g. Persons with Disabilities in Social Welfare), did not have a dedicated institution or resources to address their concerns (e.g. Informal Sector), or those whose human rights concerns are not currently taken up by the implementing agencies (e.g. Prisoners). The presence of the plan and their identification as a vulnerable sector right away highlights them as a sector needing attention. Corollary to this is the fact that these sectors are granted "voice" to their concerns and venues where they can be heard. This is an important starting point for their concerns to be heard and addressed. The respondents that the SWGs served as an alternative venue or mechanism for airing their concerns whenever other mechanisms failed to support their causes.
5. **PHRP created an awareness of the linkage between human rights and development.** Another major accomplishment of the PHRP1 is that it created an awareness of the role of human rights and development among the various stakeholders. The processes in preparing and implementing the plan created awareness within the agencies for the human rights concerns in their respective sectors, link of human rights in other development issues such



governance, poverty reduction, globalization, etc. Although more needs to be done in this area, the PHRP 1 has roused interest in the human rights dimensions of development. Currently, there are efforts to introduce a rights-based approach to development programming and part of these gains can be attributed to the PHRP1.

6. **The Plan served as a catalyst for inter-agency collaboration and multi-stakeholder cooperation for the promotion and protection of human rights.** The PHRP preparation and implementation was able to involve other players, from GOs (more than CHR), NGOs and POs in the responsibility for the PHRP formulation and implementation. Memoranda of Agreements (MOAs) were established for the agenda items that needed the participation of various agencies and institutions.

#### **D. Other Lessons Learned and Areas for Improvement**

The next set of findings cites areas where lessons can be learned and used for the preparation of the next PHRP. These must be considered not merely as “weaknesses” but as limitations in the planning, formulation, implementing and monitoring process that can be addressed in the next attempt to draft another human rights plan.

The intention is to find ways of how to improve the current arrangements and be relevant in terms of issues that have recently emerged. Discussions focus on the perceived redundancies or deficiencies of the current processes.

1. **Unclear Bases for Formulation of the PHRP agenda.** This stems from a lack of baseline study or a comprehensive situationer that identifies the gaps in the human rights promotion and protection and the standards by which the current HR situation can be compared. The respondents from the implementing agencies likened some of the agenda items to a “wish list” or a mere compilation of issues, meaning that it was not a plan in the real sense. Another reason is the lack of clarity on how the HR agenda can be provided in their respective agencies’ development plans. While MO 258 directed the agencies to participate in the preparation, the implementing arrangements remain vague - resources for implementation, responsibilities and accountabilities of agencies and the authority of the Secretariat ( in this case the CHR) to ensure compliance of the agencies to their commitments.

The other area for clarification is the extent of adoption of the human rights concerns in the preparation of the agency plans and programs, a function of the consistency of the development paradigms used by the agencies with the rights-based approaches and the presence of supporting mechanisms for incorporating the HR agenda (e.g. directives from the Office of the President), availability of resources for HR programs, authority of agencies to enter into partnerships on human rights, and mechanisms for compliance. With the current arrangements, at best, the agency representative can advocate, within her or his capacity to incorporate HR concerns with uncertain support from the head and other units in the agency. The agencies may also decide to commit only to the agenda items that are already part of the agency programmes and those that can be assured of funding and implementation. This limits the scope of what can be included as part of the HR agenda in the sector.



2. **Insufficient Resources for HR Programs.** The adoption of a new program area implies additional resources unless there are directives to do away with some activities for the implementation of HR programs. While the memorandum extending the operations of the task force provides that the agencies can allocate resources from their own budget, no additional resources were provided for HR programs. From the perspective of the agencies, the additional HR programs (to distinguish from what they are already doing that fall under the ambit of human rights promotion and protection) constitute an "*unfunded mandate*". This limits the programs to those that are already in the agency plans, the resources that can be provided or spared by the agencies, or sourced through other means, all of which are vulnerable to changes in the resource allocation decisions.
3. **Perceived ineffectiveness of current SWGs as mechanisms for Implementation and Monitoring.** The tasks of the SWGs were to review and monitor the implementation of the plan agenda and serve as a venue for discussion of human rights issues. It should be mentioned at the onset that the funds for the SWGs are limited to what is allocated by the CHR to this program – mostly intended for meetings. Further, its composition is intended for status monitoring and does not provide for technical assistance or capacity building for the plan implementors.

The concerns raised are related to those functions and the expectations of the various stakeholders from its role in the PHRP implementation (or issues encountered in the course of implementing the Plan.

Issues that affected the effectiveness of the SWGs include the frequent changes in the personnel assigned to it, the lack of proper turnover of functions as a representative form the SWGs, resource constraints especially for the non-government agencies to participate in meetings/consultations and the non-committal status of the sectoral consultants in convening member agencies. This retards the inter-agency cooperation which is perceived to be the added value of the SWGs. Some respondents also mentioned the lack of technical ability to address the issues of their sector.

Agency representatives complained the difficulty of getting support in their respective agencies for the PHRP and the difficulty of getting funds allocated for the PHRP agenda. For instance, a sectoral consultant may feel unable to commit his/her agency to PHRP programs especially when the department head follows a different thrust. Some of the SWGs' agenda were also perceived to duplicate or are redundant with those of similar inter-agency mechanisms such as the NAPC. The others spoke of the lack of teeth of the SWGs in ensuring compliance from the implementing agencies, arising from their disappointment in the implementation of the agenda.

The other issue is the lack of indicators to monitor the progress of the plan and lack of updates on the plan. It can be recalled that there were no commonly agreed progress indicators during the plan formulation. Even the time frame for each sectoral agenda was not properly laid down for convenient monitoring. During the conduct of the study, the key respondents were asked to supply the indicators for the PHRP action agenda. However, most agencies were not able to supply

concrete indicators hence, the DAP filled this gap by suggesting possible objectively verifiable indicators. These were then subjected for validation by the agencies.

The importance of indicators should not be underestimated. For instance, if the plan cited 'increased awareness' on certain rights as part of the sector's commitments, there was no telling whether implementation of one or two training programs have sufficiently addressed this need for awareness. Indicators should have been helpful in taking stock of what areas of the overall human rights work are being neglected. Performance data are also critical in identifying the strengths and weaknesses of the implementing arrangements. They provide a yardstick for measuring progress even during the implementation stage. If indicators have been sufficiently provided, the implementors of the Plan need not wait for the plan to expire in order to have a picture of what has been done so far. The rationale for having these indicators stems from the need to know and track how well human rights are being advanced through the PHRP which can be used as inputs to policy decisions and development planning of involved agencies.

In addition, there was no standardized reporting system to elevate updates on the plan implementation. Agencies submit progress reports irregularly while others don't. This poses another difficulty for the Secretariat tasked to report on agency compliance. Where there is a reported non-compliance, the Secretariat cannot refer to any progress indicators and commonly agreed time frame to serve as basis to go after these agencies. It is possible as well to leave out other initiatives, especially of the non-government organizations since reporting is usually done by the lead agency (which is not very different from its accomplishment report as a department). Other initiatives may be left undocumented.

For most of the stakeholders, the problematic monitoring was due mainly to the weakness of the CHR to go after agencies. This issue pertains to the perception that since the CHR houses the PHRP Secretariat, its responsibilities include monitoring each of these agenda. This may be seen as a misguided argument since the CHR has its own mandate and accountabilities as an independent constitutional body. Further, MO 258 has authorized the CHR to lead the inter-agency task force during the plan preparation. This may have sent signals to the agencies especially to the NGOs, that the CHR owns the plan and therefore should be the one responsible for monitoring the PHRP.

4. **Relationship of the PHRP1 with other Development Plans.** The PHRP1 is a plan of the government and includes the roles and responsibilities of various agencies in human rights promotion and protection. The plan in its present form duplicates aspects of other national development plans and sectoral plans : *MTPDP for all sectors, NAPC for the addressing social and economic rights , Framework Plan for Women of the NCRFW for Women, Child 21/PAPC , CWC for Children, PPOP for Elderly , DSWD, Agency Plans (DSWD, DOLE, DILG), and NCPWD for PWD.*

The monitoring functions and the venues for discussion of issues provided reflect these overlaps in agenda resulting in views that there might not be a need for the SWGs since these issues are discussed in the other venues anyway. In spite of these redundancies, some of the sectors complained that some of their concerns

were not included in the PHRP (e.g. PWD). This and given the perception that human rights concerns in the country have not been addressed lead to recommendations from stakeholders for the PHRP not to duplicate existing efforts but instead to recast itself so as to complement and enhance existing HR programs.

A major issue that has to be resolved is the responsibility for the implementation of the plan that is currently being ascribed to the CHR. The CHR clarified that its role in the PHRP during the validation workshop by saying that it was limited to the Secretariat role and that the government and the various sectors owned the plan.

5. **Overlaps in the concerns across sectors.** The last set of issues has to do with the duplication of issues across the sixteen (16) vulnerable sectors (e.g. Muslims are in the Muslim, ICC and Internally Displaced Sectors; Children are affected by issues in other sectors as well). In order to better respond to the needs of these sectors, inefficiencies that arise out of duplication of issues need to be avoided. A question that was raised is whether to continue organizing the PHRP according to the sixteen vulnerable sectors or to instead focus on the various themes (e.g. right to participation, right to food).

Generally, it can be said that the efforts in the PHRP1 preparation and implementation were able to create an environment receptive to HR promotion and protection in the Philippines. The enhanced awareness of HR issues and the mechanisms that had been created as a result of PHRP can serve as a foundation for the subsequent national PHRP. The areas for improvement can serve as lessons for the preparation for the next PHRP as well as areas for follow through and enhancement of existing strategies on human rights promotion and protection.

## Recommendations and Alternatives

### Part IV

Recognizing the fundamental purpose of a national human rights action plan, the PHRP can serve as an instrument to guide overall human rights efforts. International organizations have provided a template and benchmarks for a national human rights plan that can be used as a guide by governments (*Handbook May 2000*).

The preparation of national human rights plan needs to take into consideration existing efforts, the institutions and development programs that are already in place to address the concerns of the vulnerable sectors. A major challenge for the next PHRP is how it can complement existing plans and institutions in order to advance the promotion and protection of rights of the vulnerable sectors.

The PHRP1 sought to address the protection and promotion of the rights of sixteen vulnerable sectors in society. Through its efforts, the national human rights plan was able to build a broad-based constituency for a national human rights agenda; build a consensus on the issues and concerns on human rights; advocate the promotion and advocacy on human rights in the various instrumentalities of government; empowered the vulnerable sectors to claim their rights; and involve NGOs and the private sector in the promotion and promotion of human rights.

These gains have been critical in creating awareness of the rights of the vulnerable sectors and the need to protect those rights, not only in the government sector but among the civil society and private sector as well. Slowly but gaining ground, the efforts of human rights institutions such as the Commission on Human Rights and the Council for the Welfare of Children are mainstreamed in the development efforts of the country. However, there are still gaps that need to be addressed in as far as addressing the concerns of the sixteen vulnerable sectors such as the need to put in mechanisms to protect and promote the rights of vulnerable sectors, the need to integrate human rights concerns in the development programs for the vulnerable sectors.

Cognizant of the fact that more needs to be done to promote human rights protection and promotion have led to a consensus among the various stakeholders on the need for another human rights plan.<sup>43</sup> The group also recognizes that the next PHRP can be enhanced to add more

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<sup>43</sup> The validation workshop held last January 17, 2003 resulted to a consensus that there should be another PHRP.

value to the efforts on the promotion and protection of human rights in the Philippines specifically in the following areas:

- ♦ Providing a comprehensive picture of the human rights situation in the Philippines to include not only the issues but an assessment of the institutional arrangements that are in place;
- ♦ Prioritization of the HR concerns, and how these can be addressed within the development frameworks in the Philippines;
- ♦ Strengthening the capacity of various institutions to address the human rights concerns;
- ♦ Continuing efforts to increasing awareness on human rights issues and approaches to improve it;
- ♦ Enhancing indicators on issues and concerns regarding human rights.

## **Proposed Elements of the PHRP 2**

Taking note of the gains and areas for development in the PHRP 1 and the challenges for human rights promotion and protection in the Philippines, the following are the proposed elements in the preparation of the next PHRP. The recommendations include decision points for the various stakeholders, strategies to enhance existing institutional arrangements for the plan implementation and monitoring. It also takes into consideration the need for a transparent and participatory effort in the PHRP preparation and implementation. The suggested steps also took note of the recommendations contained in the Handbook on National Human Rights Plan of Actions, lessons distilled from the experiences of other countries.

At present, there are no directives whereby the preparation of the next PHRP can be prepared. The Executive Orders for the PHRP (MO 258 and MO355) covered only the preparation of the first plan, have expired in 2000 and did not provide for a successor plan. To ensure the involvement of the government (similar to how the PHRP 1 was prepared), there must be sponsorship for the plan from the highest level of government, i.e. the Office of the President from the preparation of plan, implementation and monitoring and evaluation. If this is not right away feasible, (since sponsorship needs to be secured from a new administration), a possible take off point, at least for pre-planning activities is the conduct of a baseline study. This can be done by the Presidential Commission on Human Rights under the Department of Justice which as part of its mandate is tasked to assist the President regarding human rights (although it was inactive during the PHRP1 preparation and implementation). The other alternative is to maximize the mandate of the CHR for human rights research.



## A. A Baseline Study on Human Rights Promotion and Protection in the Philippines

Central to the task of preparing a national human rights plan is complete and accurate information on the human rights situation in the Philippines or a baseline study on the human rights protection and promotion that is acceptable to the various stakeholders. The first task is to identify the responsibility for this. The handbook recommends a national coordinating body to be designated to ensure the participation and cooperation of the various stakeholders.

The first decision point is on the *parameters of the baseline study* and foremost is the *definition of human rights to be adopted*. At the minimum, the definition needs to take into account the international treaties to which the Philippines is a member of. Other aspects of the definition should be acceptable to the major sponsors and stakeholders of the plan.

The second task is to have a *levelling of principles, values and understanding of human rights and human rights protection among the various stakeholders*. Aspects where consensus is recommended are on the principles and values of human rights and human rights protections (i.e., what constitutes a human rights violation), the key sectors to be covered in the study. The handbook lists the following components of a baseline study that can be adapted based on the scope of the baseline study to be undertaken:

1. Legal framework – to include the international framework, covering the extent to which the provisions of the Universal Declaration are observed, the status of the State's ratification international treaties, the incorporation of international norms into domestic law and a survey of domestic law in the human rights field.
2. Human rights institutions – a review of the institutional framework for human rights protection in the country given the scope identified, and survey and assessment of the effectiveness of institutions relevant to human rights, and the extent that the civil society can participate in efforts on human rights.
3. Social indicators – data on the state of human rights observance, particularly in relation to economic, social and cultural rights, preferably disaggregated to show incidence of discrimination or marginalization.
4. Vulnerable groups – listing of the groups in society that are considered as vulnerable or in some way requiring special attention, and their human rights situation.
5. Human rights issues – listing of the human rights issue that have been identified over the recent time by national inquiries, the government, NGOs, the UN treaty bodies and the media. The PHRPI assessment revealed that the availability of information varies for each vulnerable sector and that more research might be needed to find out the actual conditions of some of the sectors.

The second task is to develop a *common framework for assessing the situation of human rights protection, including the methodologies to be used and the indicators to be included*. A decision point is *whether to retain the sixteen vulnerable sectors* in the PHRP or focus on those that need attention.

The use of a rights-based framework, e.g. examining the interactions between the duty-bearers and the claim-holders in development can be explored at this point. Indicators need to be selected from among those that are available and appropriate to the human rights concerns being addressed.

The findings from the situationer need to be presented and validated by stakeholders. The main objective of this exercise is to generate awareness on the human rights situation, get a consensus on the priority issues and concerns, and generate recommendations on how to address the issues. Similar to the process undertaken in the PHRP1 consultations should as much as feasible, involve all stakeholders. The handbook recommends the following criteria for the cooperative prioritization of issues: severity of the problem identified, in terms of its human rights impacts, resource availability, impact of accomplishment of the task on the other plan objectives, and the extent of public interest in the issue. The last activity would involve the dissemination of the results of the baseline study. *A target outcome of the baseline study is the decision by government to prepare Philippine Human Rights Plan, designation of responsibilities and the provision of resources for its preparation.*

## B. Considerations in the Formulation of the PHRP

The initial decision points are on the purpose, content and structure of the PHRP as an instrument for human rights protection and promotion. It should also be decided whether the PHRP is a government plan or to include non-government organizations and the private sector as owners of the plan. Prior to making these decisions, it is recommended that a review of the current responsibilities and accountabilities for the priority areas of concerns both at the national levels be made. Similarly, a review of the structure and content of agency plans and national development plans and existing structures of non-government organizations needs to be done to identify available implementing mechanisms for the priority areas of concern.

**Organizing for plan preparation.** Since the effectivity of the preparation (and resource support) of the PHRP1 has expired, there needs to be another issuance regarding the preparation of the next PHRP, specifically to set-up a national coordinating committee for the preparation of the PHRP. Such issuance should include provisions for resources, responsibilities, implementing arrangements and authority to prepare the plan.

The CHR, which articulated its reservations to be the secretariat for the PHRP citing conflict of interest with its mandate as autonomous, has already recommended that another agency be designated as secretariat. In this case another body needs to be identified for this task. If the plan involves inter-agency collaboration, then the responsible body must have the corresponding mandate, authority and resources to launch such an effort.

There is an active body called the **Presidential Committee on Human Rights (PCHR)** under the Department of Justice that is mandated to assist the President in the discharge of her duty to respect and foster human rights. The feasibility of the PCHR as the Secretariat to the preparation of the plan should be explored in terms of appropriateness of mandate, capacity and availability of resources.

## C. Strategy and Agenda Formulation

This task follows from the agreement on the purpose and role of the PHRP. Decision points are on how to formulate the strategies and action plans in order to ensure support from various stakeholders.

The use of inter-agency task force<sup>44</sup> used in the preparation of the PHRP1 were effective for the multi-sectoral nature of the stakeholders and this can be enhanced by well prepared reference papers for the formulation of the action plans. One of the comments on the PHRP1 agenda was the absence of a good situationer on human rights. The agenda were limited to either what were already found in agency plans and on a "wish list" of the participants. This can be corrected by providing clear parameters on the action plan formulation.

Given the existing institutional arrangements, the appropriate role and function of the PHRP should be identified for each of the vulnerable sectors and for the human rights efforts in the country as a whole (e.g. role of the PHRP in the gender sector given that there is already an NCRFW; in the children sector given the presence of the Council for the Welfare of Children and in the Prisoners sector, where very little is done in terms of protecting their rights). The PHRP should also be able to define its role against the national development plans.

The handbook recommends other elements to be included in the plan: time-bound objectives and specific targets; education and research on human rights promotion and protection; dissemination of the plan; issues regarding compliance to international commitments; and promotion of the consideration of human rights in the development process.

Clear targets and definition of roles and responsibilities for performance should be identified for the implementing agencies, including provisions to ensure compliance. Unclear roles and responsibilities were identified as some of the weaknesses in the PHRP1 implementation, making it difficult to monitor performance and demand compliance.

The last and most crucial factor in the success of the PHRP is the commitment of government and the other sectors in the implementation of the plan through the availability of resources, authority and institutional support for the implementation of the plan. Lack of resources was one of the main reasons for the non-implementation of certain components of the PHRP1.

## D. Plan Implementing and Monitoring Arrangements

The next set of considerations is on the institutional arrangements and provisions for the implementation of the plan that need to be determined based on the final version of the PHRP. Considerations on the implementing structures are on:

**Designation of the PHRP Secretariat.** There is a need to designate a Secretariat for the plan whose functions will be on coordinating the implementation and monitoring of the plan, facilitating inter-agency collaboration, capacity building for the various stakeholders and resource mobilization. The Secretariat should also have sufficient authority, either by mandate or by appointment to ensure the compliance with various agencies. The PHRP Secretariat will also be authorized to review mechanisms for implementation such as the SWGs and how this can be strengthened.

<sup>44</sup> MO 258 established an inter-agency task force for strategic planning and research for human rights protection. Initially, the task force was composed of senior officials from Office of the President, Department of Foreign Affairs, Department of Justice, Department of Education, Culture and Sports, and the Supreme Court of the Philippines. Later, membership was extended to include the Department of Budget and Management, Department of Interior and Local Government and the National Economic Development Authority.

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