

# HUMAN RIGHTS FORUM

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## MUDDLING THE RICE ISSUE



PHILIPPINE HUMAN RIGHTS INFORMATION CENTER  
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## ■ EDITORIAL

# Krisis sa Pagkain

PAGPASOK ng Marso nitong taon, may nadagdag na dramatikong imahe ng paglabag sa karapatang pantao ng mga Pilipino – ang mahabang pila ng mga bata at mga nanay upang makabili ng murang bigas ng NFA.

Ang kasalukuyang krisis sa pagkain ay bunga ng patung-patong na paglabag at kapabayaan, pangunahin ng gobyerno, sa iba't-ibang karapatang pantao ng mamamayan.

Unang-una na rito ang karapatan sa lupa ng mga magsasaka. Ang pagpapatupad ng repormang agraryo ay hindi lamang upang mabigyan ng katarungang panlipunan ang mga nagbubungkal ng lupa. Kailangan din ito upang mapataas ang produksyon ng pagkain at mai-angat ang antas ng pamumuhay ng mga lumilikha ng pagkain.

Ngunit makalipas ang dalawampung taon, hindi pa rin lubusang naipamahagi ang mga lupang sakahan sa bansa.

Pangalawa, mahalagang sangkap din ng repormang agraryo at ng karapatan sa pagkain ang pagpapatayo ng mga 'farm to market roads,' irigasyon, at iba pang imprastrukturang magpapataas sa produktibidad ng agrikultura at magtitiyak ng maayos at mabilis na pagbibiyaha ng mga produktong agrikultural.

Ngunit hanggang sa ngayon ay napakaraming bukirin ang umaasa pa rin sa ulan bilang irigasyon at mga malalayong komunidad na hirap na hirap dalhin sa pamilihan ang kanilang mga ani.

Tungkulin din dapat ng pamahalaang suportahan hindi lamang ang mga magsasaka kundi ang iba pang sektor na lumilikha ng pagkain tulad ng mga mangingisda at mga naghahayupan. Ang suportang ito ay sa anyo ng mga pagsasanay, pautang, kooperatiba, pananaliksik, subsidyo, at iba pang mga programang magtitiyak

sa kanilang kagalingan at magpapahusay din sa kanilang mga gawain.

Ang problema, marahil ay mabibilang sa daliri ang mga sinuswerteng nakakakuha ng ganitong mga tulong mula sa pamahalaan. Siguro kung may kakilala sa barangay o munisipyo o kaya naman ay kung eleksyon.

Dahil sa mga nabubunyag na korapsyon sa mga ahensyang dapat sana ay tumutulong sa mga magsasaka at iba pang sektor sa pagkain tulad ng 'fertilizer scam,' hindi na kataka-takang halos wala nang nakakarating na tulong at mga pasilidad sa mga lumilikha ng pagkain. Kaya maituturing ding paglabag sa karapatang pantao ang pangungurakot sa pondo ng bayan.

Natural hindi tatanggapin ng pamahalaan na ang pumuputok na krisis sa pagkain ay bunga ng kapabayaan at paglabag nito sa mga karapatang pantao ng mamamayan. Hindi nga ito binanggit sa ulat nito sa United Nations sa ilalim ng 'Universal Periodic Review' nitong Abril.

Hindi rin ito inamin ng pamahalaan sa ulat nito sa UN Committee on Economic, Social, and Cultural Rights na isinumite noong Disyembre 2006.

Tila 'normal' na ito sa mga pamahalaan, na pagtakpan o kaya ay itago sa napakahaba at paliguy-ligoy na detalye ang mga kapabayaan nito sa karapatang pantao.

Kaya naman ang hamon, hindi lamang sa mga tagapagtaguyod ng karapatang pantao kundi sa kalakhang publiko, ay maibunyag at makalampag ang mga nasa pwesto hanggang sa sila ay makinig, igalang, seryosohin, at bigyang prayoridad ang ating mga karapatan.



■ By **DANILOVA MOLINTAS**

**W**ITH A 7.3 percent growth in gross domestic product (GDP), 2007 was supposedly the boom year for the economy – the time of “great hopes and expectations.” That is, according to President Gloria Macapagal-Arroyo.

She was banking on growth coming from economic integration with east Asian economies, and tighter economic relations with China – issues tackled during the 2007 Association of South-east Asian Nations summit.

Today, a year after the summit, news of a global rice supply crisis rudely interrupts the administration’s strident economic huzzahs. And with the Philippines the world’s top rice importer today, Pinoys are

bound to go hungry.

Long lines form wherever government stocks are being sold at subsidized prices. The government has been searching the international markets for new supplies to replenish its stocks – and is willing to pay record-breaking prices. So aggressive is its rice-buying push – described by some as “a mad scramble” – that the Philippines has been blamed for the spike in world prices.

According to the UN Food and Agriculture Organization, large tenders by the Philippine government – which wanted to

# MUDDLING THE RICE ISSUE



Residents of Brgy. Commonwealth, Quezon City flock to a National Food Authority (NFA) rolling store.

PEPITO FRIAS/PhilRights Photobank



**A grandmother in Brgy. Tangos, Navotas buys from an NFA store.**

fill its expected 2008 rice production shortfall of up to 2.7 million tons - "have helped drive up prices by 76 percent between December 2007 and April 2008." The country's "aggressive and pre-announced buying" - made at a time when major rice suppliers like Thailand and Vietnam were putting export curbs - "had the effect of swinging the market forces."

For over a month, news of rice dominated headlines. Finding a solution to the crisis seemed to be consuming the government's energy.

What really is behind this crisis? Is there really a crisis?

Agriculture Secretary Arthur Yap says that the problem lies not with a shortage, but with rising prices of rice.

"And when you consider that 80% of our population spends 60% of their income on food, and 40% of that is on rice, it is very serious," he told the media.

### **Biggest rice Importer**

The Philippines has always had to import rice, unlike other rice growing nations like Thailand and Vietnam that have turned themselves into the world's two biggest rice exporters.

In contrast, successive governments in the Philippines have failed to invest in the agriculture sector. And while the Philippine economy is growing at an impressive 7.5%, most of the growth comes from the services sector - like the booming call-centre business.

Na-

tionists and economists alike have pointed to this lopsided growth as unsustainable, and have long warned that a food crisis was just in the offing. While food prices were low, no one took notice of these warnings. But once they started rising, people began panicking - and this has complicated matters for the country.

First off, buying on the international market became harder. Traders in Thailand and other rice exporting countries sell rice on forward contracts. With prices moving so fast, however, they have found it difficult to determine the right price. Now, with huge numbers of anxious buyers to choose

**Sacks of rice ready for loading, Bayombong, Nueva Vizcaya.**



Photos: PEPITO FRIAS/PhilRights Photobank

from, prices are rising very quickly.

President Arroyo moved in, quickly locking a deal with Vietnam to supply up to 1.5 million tons of rice later this year. She also announced that with agreements to import as much as 2.7 million tons this year, the country has enough rice it needs. International market analysts say this could be “the biggest overseas purchase” of rice ever made by any country in the last decade.

### Hoarding

Critics, however, argue that by advertising this deal, then urging the public to undertake token “rice-saving” measures like asking for reduced servings in restaurants, the president may have unintentionally given the impression that the crisis is worse than it actually is.

While government stocks had been depleted down to just a two-week supply early in the month, experts say there was never any likelihood of running out.

Analysts say that the governments’ action set of a spiral of panic that caused ordinary people and traders to hoard stocks.

Seeing rising prices in the market, ordinary Filipinos bought up rice to store at home. Traders began hoarding huge stocks in the hope of profiting from higher prices later.

In response, the president set up a special anti-hoarding and smuggling task force, which carries out regular raids on suspected hoarders’ warehouses. Violators could be charged with economic sabotage.

Worse, cynics argue that President Arroyo may have exaggerated the rice crisis to distract attention from the financial scandals rocking her administration.

Just buying enough rice on the international market to ensure government stocks are replenished could cost the Philippines as much as 1% of its GDP this year, and put a huge dent in the budget. The government has already spent as much as \$1 bil-



**Rice milling in Bayombong, Nueva Vizcaya.** PEPITO FRIAS/PhilRights Photobank

lion buying 1.7 million tons of rice this year.

### Farming

The crisis has brought to the limelight the question: Why has the Philippines been unable to achieve self-sufficiency in food in the first place?

The Agriculture department claims that agriculture has improved, and rice output has been growing at 5% a year. But this may not still be enough to match rising demand—especially with a population growing at one of the fastest rates in the world.

So now population growth is another issue and the role the Catholic Church has played in blocking family planning programs is being debated.

In 1990 the population of the Philippines was 60 million. Today it is approaching 90 million.

In a globalized market, countries can produce large amounts of whatever suits their land and

climate best and import the rest.

In this light, attaining food self-sufficiency seems unnecessary.

Rice, however, is more than a commodity. It is a staple food for two-thirds of the world’s people, and has an emotional and cultural importance far beyond its mere nutritional value. For many Asian governments, maintaining a reliable supply of affordable rice is seen as vital to keeping social stability. This is why so many have shut off exports to try to control prices at home. Rice importers, or the “have-nots” — like the Philippines — are now at risk.

Politicians muddle the issue by calling it a “rice price crisis” and not a “food crisis.” But in a country where 11 million Filipinos live below \$1 a day, and one-fifth of families report having to go hungry at least once in three months—any rice price crisis is bound to be a real crisis. ■

■ By **DANILOVA MOLINTAS**

### The problem

**F**ILIPINOS consume about 11.9 million metric tons of rice every year but the decline in domestic production and the flawed rice trading system have created a 10-percent shortfall.

The country continues to rely on importing rice. This is proving unwieldy as a lot of rice-producing countries have recently opted to either ban or limit their rice exports to ensure that they can meet their own domestic needs. Such restrictions have removed a third of the rice traded in the international market.

The curb in imports and dwindling domestic rice production have combined to cause a dramatic increase in commodity prices. By March this year, rice prices had already gone haywire. In Quezon province, rice was being sold at as much as P40 per kilo, with the cheapest variety sold at P32 a kilo. Monitoring by the Bureau of Agricultural Statistics shows that the retail price as of April for commercial fancy rice was P45 per kilo, while well-milled rice was sold at P32 per kilo.

The price of rice is projected to shoot up especially during the lean months of July, August, and September this year, and may even go between P50 and P60 per kilo once imported rice reaches \$1,000 per metric ton<sup>1</sup> and world oil price is pegged at \$150 per barrel.<sup>2</sup>

### The official moves

On April 1, President Arroyo issued an executive order to ensure a steady supply of rice for Filipinos and to avert a rice crisis. The order authorized the release of P5 billion in subsidies to rice farmers.

So far, this is the largest sum ever released to support food producers. But food experts

# Finding Solutions to the Rice Problem



say this is a “mere drop in the bucket” given the magnitude of the agricultural crisis facing the country.

## What World Bank says

The World Bank Corporate Governance however is not buying the idea of giving subsidy grants to farmers.

It says such a policy is “fiscally ruinous”. It will cost the government an average of 1.6 percent of its GDP. Instead, the Bank urges the government to reduce the tariff on imported rice.

## What Pinoy experts say

Dr. Teodoro Mendoza, a crop science professor at the University of the Philippines in Los Baños, says that while five billion is a big amount, it is not enough to fully address the problem.

The bulk of the P5-billion subsidy will be channeled by the agriculture department to irrigation of rice lands to boost production and stabilize supply and cost.

## Anxious buyers: housewives from Brgy. Commonwealth, Quezon City at an NFA store.

PEPITO FRIAS/PhilRights Photobank

## Grains of gold: preparing rice for cooking.

JAY AZUCENA/PhilRights Photobank



Mendoza thinks the World Bank’s position may be as a lending institution worried about the government’s capacity to settle its loan obligations.

Both Mendoza and Senate Minority Leader Aquilino Pimentel Jr. explain that other countries, including the United States, support their farmers with subsidies, and are thus able to attain high production in rice, wheat, and other agricultural products, which they export to other countries.

UP School of Labor and Industrial Relations (SOLAIR) Dean Dr.

Jorge Sibal insists though that two regions alone dedicated to rice farming, and with the right technology, would be enough to feed the whole nation.

Former National Economic and Development Authority (NEDA) chief Cielito Habito points out that declining agricultural productivity is the result of an institutional environment that gave little incentive and capability for farmers to invest in productivity improvements.

Other disincentives are low farm gate prices and rice cartels

lording over rice trading.

With farm credit dominated by usurious informal lenders and traders, farmers have little capability to spend for productivity enhancements even if they were available.

Dr. Rene Ofreneo of the Fair Trade Alliance says that incoherent policies have thwarted the ability of the country to become self-sufficient in rice and other agricultural crops. Massive land conversion and trade liberalization have also caused the current state of food insecurity.

## The Proposed Solutions

- multi-pronged development interventions including land reform, job creation, and food programs for both the urban and rural poor
- land reform should include irrigation and farm credit, and address the uncompetitive elements in the rice trading system. ■

## ENDNOTES

<sup>1</sup> In fact, in its April 17, 2007 tender, the National Food Authority acquired 35,000 MT of 5% broken rice with a weighted average price of \$1,3233 per ton, and 288,875 MT of 25% broken with a weighted average price of \$1,135.95.

<sup>2</sup> As of May 23, galloping world oil prices had already reached \$135.04 a barrel. The investment bank Goldman Sachs projects oil prices to average \$141 a barrel in the second half of 2008. Prices could top \$200 a barrel by 2010, the bank said.

\***Ms. Molintas** is a freelance writer “disguised” as a full-time office worker and mother. She also contributes to the *Philippine Center for Investigative Journalism*.

**W**HEN rice prices suddenly went berserk in the first quarter of 2008, panic hit Filipino homes. The staple food of almost all Filipinos, rice – and the shortage of rice – is literally a life-and-death issue for the entire country.

It took the government agencies quite awhile to work out a support system that would provide cheaper rice to the larger population. There were the requisite blame-throwing, the “threats” of Senate investigation, the denials, and the usual “informed analyses.” Most distasteful and callous of all, there was the official announcement that there was no rice shortage or crisis, just rice “price elevation.”



**Buying rice is never fun: in Brgy. Tangos, Navotas, residents wait for their turn to buy lower-priced rice.**  
Photos: PEPITO FRIAS/PhilRights Photobank

# HUNGRY QUEUES

However loud the government tries to convince us that there is no shortage, there is no denying the long lines that form in National Food Authority (NFA) outlets where rice is available at government-subsidized prices.

While queueing up for their daily rations of rice, three members of Kongreso ng Pagkakaisa



**Harvesting: two elderly women work the fields in Bayombong, Nueva Vizcaya (below).**

ng mga Maralita ng Lungsod (KPML), an urban poor organization, listened to the woes of those who, daily, had to endure the ordeal of lining up for a kilo or two of cheaper rice.

Ligaya Acosta, Julie Quijano and Janet Lutan, recount the stories they culled from the other women they met in the NFA outlets of Malabon, Navotas and Caloocan.

## Ligaya Acosta

I met Aling Corazon, a 50-year-old mother who takes care of three unmarried sons and a three-year-old grandson. She lives in Dagat-Dagatan, in Caloocan.

Compared to most of the women who were also waiting for their turn to secure their daily stock of rice,





**Hungry street children share a plate of rice** Photos: PEPITO FRIAS/PhilRights Photobank

Aling Corazon was relatively better off. Her husband was employed by the city government as a metro aide, earning about P8,000 a month. And compared to other urban poor households, her family was also smaller. But like the rest of us in the line, Aling Corazon felt the pinch of hardship just as acutely.

"We consume two kilos of rice every day," Aling Corazon told me. One kilo is cooked for lunch; another for supper. What about breakfast, I asked. "*Tipid na lang,*" she simply told me. For breakfast, they just gulp down a cup of coffee.

While Aling Corazon has access to an NFA outlet, she complains that at P25/kilo, NFA rice is still expensive. Add to this the exhausting task of waiting in line. "It is very hot," she explains. She recalls waiting in line for more than two hours, under the heat of the sun. "*Minsan may mga sumisingit sa uhanan. Pag nangyayari yan at walang tanod na nakabantay, talagang halos magmurahan ang mga nakapila.*" Indeed, it's not only physical stamina that one needs in these lines; one also needs fortitude. And even a sense of humor. One's patience is severely tested, especially if one lines up for at least two hours, only to be told that the stocks had run out when one reaches the front.

If she had a choice, Aling Corazon says she would rather not join the queue.

But like the rest of us, this 50-year-old mother had no choice but to line up, like a prison inmate, for her ration of survival.



**Janet Lutan**

I met Jocelyn, Honoria and Ludy in front of the rolling store selling NFA rice in Malabon.

Jocelyn has three kids, although her household consists of nine – including in-laws, a cousin and a grandmother. Her husband earns about P300/day, which she tries to stretch for all the household expenses: rent, electricity and water bills, food and all the other needs of her children. Nine mouths consume at least 3 kilos a day, she told me.

But most of the time, the outlets will only sell 2 kilos per person. And that's on a lucky day. Jocelyn told me she had experienced when stocks would run out before she could reach the front for her turn to buy. No wonder frustrations run high, and tempers usually flare up, she says. On one occasion, she was told that the store could not sell any more rice. There was



**Barangay officials prepare the bags of rice for selling.**

still available stock, but she was told that this was already earmarked for the *barangay tanods*.

Honoria, a mother of five, recalls lining up at 6:00 AM. She was able to get her 2 kilos past 12:00 noon.

Lining up for 2 kilos of rice has become a daily routine for a lot of mothers. I wish they would sell more, so we don't have to suffer through the long and tiring lines. But the people who sold the grains told us that if they don't limit the volume, the stocks would immediately run out. They feared those who couldn't buy would riot. Somehow, I can't blame people if they become too angry. Imagine going home empty-handed, to tell your family at home that they cannot eat that day.

**Julie Quijano**

Beng, Doding, Maria and a few others shared their stories

with me. Beng had also experienced going home without any purchase, because by the time her turn came, there was no more rice to be bought. She doesn't want that to happen again. So now she has a mental map of all the outlets near her place. In case one runs out of stock, she could rush to another outlet. "*Kahit saan pumipila siya.*"

Doding, just like everyone else, had problems with the long lines that sometimes end in front of an empty sack. Maria told me about quarrels that erupt among the hungry and impatient people because the ones managing the stores would arrange it so that their friends would get ahead in the lines. As for Cyril and Me-Ann, they find the NFA rice unpalatable. But with commercial rice selling at P36-40/kilo, they had to set aside their discriminating tastebuds. ■

**L**UBHANG malaki ang impluwensya sa pulitika ng Pilipinas ang pag-angat ng Tsina bilang isa sa pinakamakapangyarihang ekonomiya sa mundo. Habang pinagnanasahan ng ating mga lider ang mga oportunidad na maaaring ibigay ng isang bansang may pambansang reserba na mahigit sa isang trilyong dolyar, nababago at binabago ang maraming bagay sa ngalan ng grasya galing Tsina—pati na ang integridad ng teritoryo ng ating bansa.



PJR/LITO OCAMPO

# BENTA HANG PILIPINAS AT TSINA

## Usaping Teritoryo at Kasarinlan

Nang pumutok ang iskandalo ng NBN-ZTE, marami ang nagtatanong kung ano ang kapalit ng madulas na pagpapautang ng Tsina para sa isang proyektong pinatungan ng 200 milyong dolyar ng mga lokal na opisyal. Pautang din ng Tsina ang napakamahal na North Rail Project na pumapatak na halos 880 milyong piso kada kilometro. Ngunit nang malantad ang pagpasok ni Pangulong Gloria Macapagal-Arroyo sa isang kasunduan sa Tsina at Vietnam para sa isang *joint seismic survey* ng mga isla ng Spratlys na pinaniniwalaang mayaman sa langis at gas, nagsimulang luminaw ang lahat.

### Nagkabentahan

Noong 2004, sa isang madaliang byahe sa Tsina, pumirma sa maraming kasunduan si Pang. Arroyo. Ang isa sa mga kasunduan ay ang pagsasagawa ng *joint seismic study* ng pambansang kompanya ng langis ng Tsina at ng Pilipinas sa pinag-aagawang



PJR/LITO OCAMPO

mga teritoryo sa South China Sea. Matagal nang pinag-aagawan ang mga teritoryong ito ng Tsina, Vietnam, Taiwan, Malaysia at Pilipinas. Naging mariin ang pagtutol ng Vietnam sa *“Agreement for Seismic Undertaking for Certain Areas in the South China Sea by and Between China National Offshore Corporation and Philippine National Oil Company,”* ngunit sa loob ng anim na buwan ay pumayag na rin ito sa kondisyong kasama ang kanilang bansa sa seismic study. Noong Marso 14, 2000,



pumirma ang Tsina, Vietnam at Pilipinas sa *“Tripartite Agreement for Joint Marine Seismic Undertaking in the Agreement Areas in the South China Sea (JMSU).”*

Sa unang tingin, maaaring tingnan na tama lang ang ginawa ng tatlong bansa dahil wala namang pag-unlad sa pagresolba ng alitan ng mga gobyernong umaangkin sa mga teritoryo sa South China Sea.

Ang pagsasama-sama nila ay nangangahulugan ng pansamantala na pagsasantabi ng teritoryal na alitan na magbibigay daan sa pagbibigayan sa paggamit ng mga yaman ng pinag-aagawang teritoryo.

Ngunit kung susuriing mabuti, makikitang lubhang naging mapagbigay ang Pilipinas dahil pumayag ito na ipasakop sa kasunduan pati ang

mga teritoryong kasama sa kanyang *continental shelf*—mga teritoryong tanging Pilipinas lamang ang may saklaw.

Tinalikuran pa ng Pilipinas ang orihinal na posisyon ng Association of South East Asian Nations (ASEAN) tungkol sa pakikipag-usap sa Tsina. Matatandaang noong 1995 may nadiskubrenang mga instalasyong Tsino sa Mischief Reef na bahagi ng *continental shelf* ng ating bansa dahil nasa 350 *nautical miles* ito mula sa *baseline* ng Pilipinas. Itinulak noon ng Pilipinas na tumindig ang ASEAN bilang isang bloke para maging malakas ang posisyon nito kapag nakikipag-usap sa Tsina.

Bunga ng pagkakaisa ng mga bansa ng Timog-Silangang Asya, lumagda ang ASEAN at Tsina sa “*Declaration on the Conduct of Parties in the South China Sea*.” Nilalayon ng deklarasyon na pigilan ang paglala ng hidwaan sa pamamagitan ng pag-iwas ng mga bansa sa mga gawain sa pinag-aagawang mga teritoryo na maaring pagsimulan ng alitan. Ang mas malalim na

layunin ng ASEAN sa deklarasyong ito ay mapigilan ang agresibong pananakop ng Tsina sa mga nasabing teritoryo.

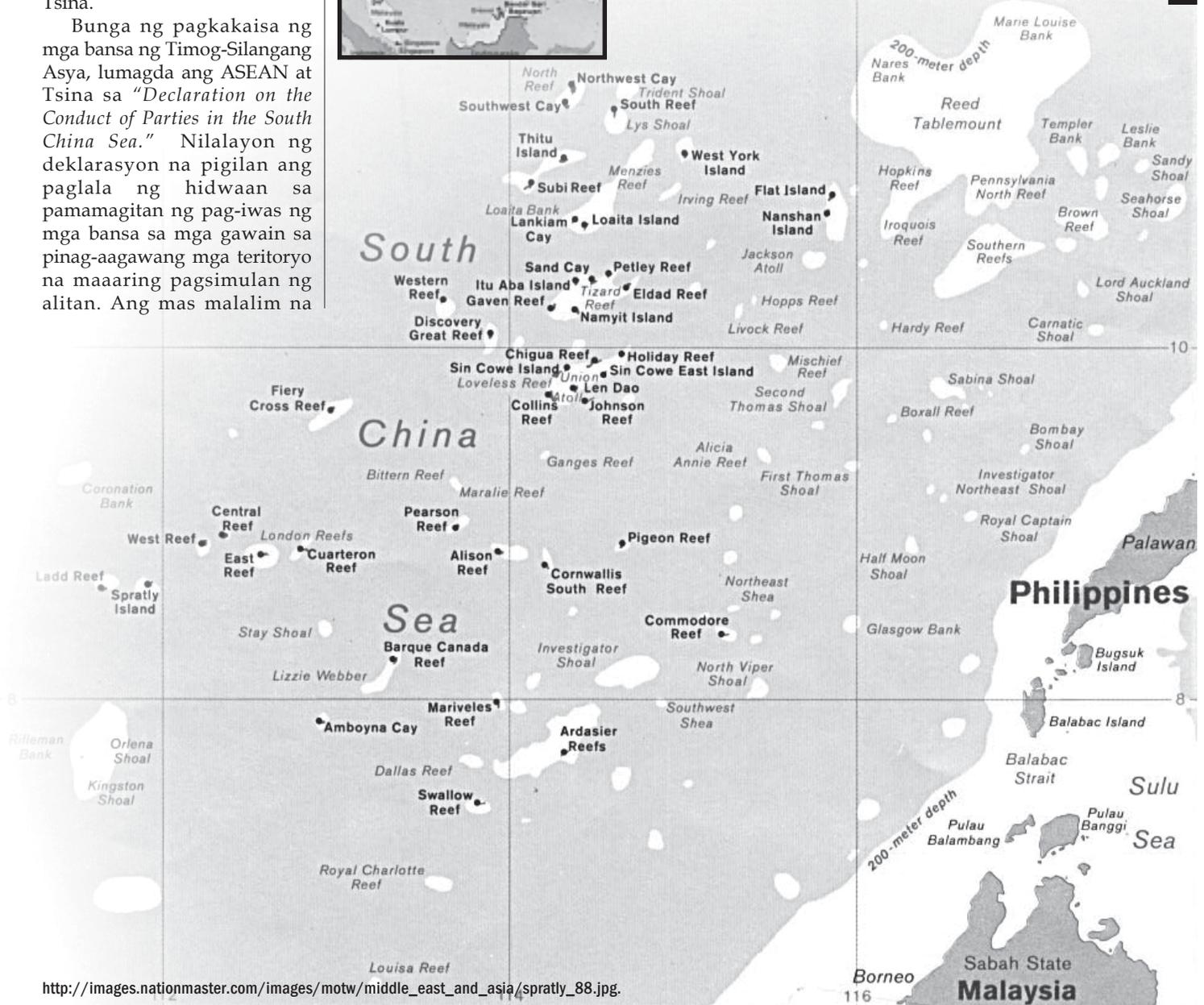
Dahil mahina ang ekonomiya ng Pilipinas at maliit ang kapangyarihang militar, mas pinili nito na dumikit sa Tsina at isantabi ang pagkikipagkaisa sa ASEAN. Ang Vietnam naman, dahil ayaw na maisahan



ng Pilipinas at Tsina at para mapakinabangan ang sitwasyon, ay pumasok na rin sa nasabing kasunduan.

Sa rehiyunal na lebel, kontrobersyal ang pagpirma ni Pangulong Arroyo sa JMSU. Hindi nagkonsulta ang gobyerno ng Pilipinas sa mga myembro ng ASEAN at tinalikuran nito ang pinagkaisahang tindig ng ASEAN sa pakikipag-usap sa Tsina na naging susi dati para mapapayag ang Tsina sa “*Declaration on the Conduct of Parties in the*

## SPRATLY ISLANDS



[http://images.nationmaster.com/images/motw/middle\\_east\\_and\\_asia/spratly\\_88.jpg](http://images.nationmaster.com/images/motw/middle_east_and_asia/spratly_88.jpg)

South China Sea." Ang Pilipinas pa naman noon ang humikayat sa iba pang bansa ng ASEAN na magkaisa sa pagharap sa Tsina. Sa dulo, maaaring magdulot ng alitan sa loob ng ASEAN ang ganitong *bilateral agreement*.

Dahil pumayag ang Pilipinas na magsagawa ng *joint seismic survey*, nangangahulugan ito na kinikilala ng ating gobyerno ang pagiging lehitimo ng pag-angkin ng Tsina at Vietnam sa Spratlys. Pinahina pa nito ang posisyon ng Malaysia at Brunei na kaagawdin ng Tsina sa iba pang mga isla sa South China Sea.

### Magkano?

Sa ilalim ng panunungkulan ni Pangulong Arroyo, nagbigay ang Tsina ng 67 na pautang sa Pilipinas. Kung ibabatay sa NBN-ZTE at North Rail Project ang kita ng mga nasa gobyerno sa mga pautang na ito, madaling makukumbinse ang mga nasa poder na samantalain ang oportunidad na handog ng Tsina.

Inabuso ng pangulo ang kanyang kapangyarihan nang pumirma siya sa JMSU. Dahil anumang kasunduan kung saan masasaalang-alang ang soberenya ng bansa ay dapat nasa porma ng tratado at nangangailangan ng ratipikasyon ng Senado. Nagpapakita ito na tila atat na atat ang pangulo at mga tao niya na ibulsa ang kita mula sa mga kontratang ibibigay ng Tsina bilang pabuya sa pagbebenta ng soberenya ng bansa.

Mapapatunayan ng mga pangyayari nitong mga nakaraang buwan kung gaano kagalante ang Tsina pagdating sa pagbibigay ng pakimkim sa mga alyadong taong gobyerno nito. Sa NBN-ZTE halimbawa, tatanggap di umano si dating COMELEC Chairman Benjamin Abalos ng 130 milyong dolyar na komisyon at 70 milyong dolyar naman para sa Unang Ginoo.

Pumutok ang usapin ng JMSU dahil na rin pinigilan ng Malakanyang ang pagpasa ng panukalang batas na nagtatakda ng *baseline* ng Pilipinas. *Baseline* ang panandang linya sa teritoryo ng isang baybayin o

*archipelagic* na estado. Ito ang ginagamit para sukatin ang lawak ng nasasakupang karagatan ng isang bansa. Sa panukalang batas ni Congressman Antonio Cuenco, itinatakda ang *baseline* ng Pilipinas na sasaklaw sa kapuluan ng bansa, Scarborough Shoal at Kalayaan Island Group.

Mahalaga ang isang batas sa *baseline* dahil may hanggang May 12, 2009 lamang ang mga bansa para magsumite ng kani-kaniyang *continental shelf limits* sa ilalim ng United Nations Convention on the Law of the Sea (UNCLOS). Ang pagharang ng palasyo sa panukalang batas ni Congressman Cuenco ay hayagang pag-iwas ng administrasyon sa paggigiit ng karapatan ng Pilipinas sa mga isla ng Spratlys. Isa itong malinaw na konsesyon ng gobyernong Arroyo sa Tsina na may malaking interes sa Spratlys.

Maituturing na parang nalilito ang mga batas ng Pilipinas tungkol sa teritoryong nasasakupan ng ating estado. Sa ngayon, may dalawang batayan ang pagtatakda ng saklaw ng teritoryo ng bansa. Ang unang legal na batayan ay ang lumang Treaty of Paris na pinirmahan ng Estados Unidos at Espanya noong 1898. Ang pangalawa ay ang PD 1599 na isang *unilateral declaration* ng Pilipinas na nagtatakda ng *exclusive economic zone* (EEZ) ng Pilipinas. Nangangahulugan ang EEZ na ang hanggang 200 *nautical miles* mula sa *baseline* ay saklaw ng teritoryo ng isang bansa. Pinirmahan ito ni Pangulong Ferdinand Marcos noong 1978. Samakatuwid, kahit ang estado mismo ay hindi depinido ang interpretasyon ng saklaw ng teritoryo ng Pilipinas. Lumalabas na may dalawang *boundaries* ang bansa dahil sa dalawang salalayang teritoryal.

Ang ganitong sitwasyon ay bukas na bukas sa pang-aabuso ng disgresyon ng ehekutibo para pasukin ang mga kasunduan tulad ng JMSU.

### Pakyawan

Hindi lamang ang mga isla sa Spratlys na inaangkin ng

## Naging mapagbigay ang Pilipinas dahil pumayag ito na ipasakop sa kasunduan pati ang mga teritoryong tanging Pilipinas lamang ang may saklaw.

Pilipinas ang nakumpromiso. Kasama rin sa *joint seismic survey* pati ang mga lugar na nasasakupan ng Pilipinas at hindi naman nabibilang sa mga pinag-aagawang teritoryo.

Sa ilalim ng RP-China Spratlys Agreement, ibinubukas ng Pilipinas ang 142,886 kilometro kwadrado ng ating teritoryo sa Tsina. Ang 24,000 dito ay mga teritoryong tala-gang saklaw ng ating bansa dahil walang ibang bansa na umaangkin dito. Pati ang mga isla ng Calamian sa Palawan ay sinusuyod ng *joint seismic survey*.

Noong April 2, 2006, pumasok na naman ang Pilipinas sa isa uling kasunduan sa Tsina. Ito naman ay sa pagitan ng China National Overseas Oil Company (CNOOC) at ng Philippine National Oil Company. Sa ilalim nito, nakakuha ng karapatang magtrabaho ang CNOOC sa ilang lugar sa Calamian na may sukat na 7,200 sq. km. Paglabag ang kasunduang ito sa Saligang Batas na nagsasabing ang isang kumpanyang gagamit sa likas na yaman ng bansa ay dapat 60 porsyentong pag-aari ng Pilipino. Ang CNOOC ay 100 porsyentong pag-aari ng mga Tsino. Sa kasunduang ito, parang ibinenta ng Pangulo ang isang bahagi ng Palawan sa mga Tsino.

Sa ilalim ng 18 kasunduang *agri-business* sa pagitan ng Pilipinas at Tsina, may 1.24 milyong ektaryang lupaing agrikultural ang ipapagamit sa mga Tsino sa loob ng 50 taon. Pinirmahan ang mga kasunduan pagkatapos ng ASEAN Summit sa Cebu noong 2007. Bunga ang mga ito ng pag-uusap ni Pangulong Arroyo at Prime Minister Wen Jiabao na dumalo pa sa pirmahan ng kontrata. Ang pagpirma sa mga kasunduang ito ay tahasang paglabag sa Saligang Batas. Sa ngayon, hinihingi ng maraming grupo sa Korte Suprema na ipawalang-bisa ang mga kasunduan.

Lumalabas na ginamit ng pamahalaang Arroyo ang teritoryo, lupain at likas na yaman pati kasarinalan ng bansa bilang kolateral sa mga maanomalyang utang mula sa Tsina.

### Kalayaan

Lubhang mahalaga na usapin ang teritoryo para sa isang estado. Sa kasaysayan, makikita ang matinding pagpapahalaga ng mga bansa sa kanilang teritoryo. Nakikipagdigmaan ang mga estado para ipagtanggol ang kanilang nasasakupan mula sa pananakop ng iba.

Nakababahala talaga ang ginawang pagbubukas sa Tsina ng administrasyong Arroyo sa teritoryong iginigiit ng ating bansa. Ipinagpalit ng pangulo ang mga ganansyang legal at di legal sa soberenya ng bansa. Maituturing na isinangla ng pamahalaan ang mga teritoryong iginigiit ng Pilipinas para makuha ang mga pangakong tulong pang-ekonomiya at lagay mula sa Tsina. Kung teritoryo ang isa sa pinaka-kongkretong ekspresyon ng soberenya, ang ginawa ni Pangulong Arroyo ay malinaw at direktang pagtataksil sa bayan.

Sa gitna ng lahat ng ito, lalong tumitingkad ang kataksilan ng administrasyong Arroyo dahil ang pangalan pa naman ng mga islang nalalagay sa alanganin ay Kalayaan. ■

Secretary-General ng Akbayan Party-List si PERCI CENDAÑA.



Alamin ang inyong mga

# KARAPATAN

## Ano ang Human Security Act of 2007 (HSA)?

**A**NG Human Security Act of 2007 o Batas Kontra Terorismo ay itinulak maipasa ng gobyernong Arroyo bilang tugon sa pandaigdigang panawagan ng administrasyong George Bush ng Estados Unidos na labanan ang terorismo, matapos ang pagpapasabog ng World Trade Center sa New York noong Setyembre 11, 2001.



Dahil din sa mga lokal na teroristang pag-atake na kadalasang ibinibintang sa Abu Sayyaf at Jemaah Islamiya, lalo pang nagpunyagi ang gobyernong maaprubahan ng Kongreso ang batas kontra terorismo.

Kaya noong ika - 6 ng Marso, 2007 pinirmahan ng Pangulo ang HSA at ganap itong nagkabisa noong ika - 15 ng Hulyo, 2007.

### Ano ang mga karapatang nilalabag nito?

Importanteng malaman na ang katagang "terorismo," maging sa pandaigdigang antas, ay wala pa ring malinaw na depinasyon. Kaya hindi rin kataka-takang malabo ang pakahulugan ng HSA sa konseptong ito.

Paano maipagtatanggol ng isang akusado ang kanyang sarili kung siya ay pinararatangan ng krimeng walang malinaw na depinasyon. Sa ganitong kondisyon, mapupunta sa mga pulis ang kapangyarihang tukuyin kung anu-anong aksyon at kung sinu-sino ang mga terorista. Nakakatakot na sitwasyon ito dahil sa masamang 'record' ng mga pulis pagdating sa pagrespeto ng mga karapatang pantao.



Sa ilalim ng ating konstitusyon, sa Artikulo III Seksyon 1, walang sinumang mamamayan ng bansang ito ang maaring kitlan ng buhay, alisan ng kalayaan at bawian ng ari-arian nang walang "due process". Sa ilalim ng Republic Act 9372 o HSA, paanong magkakaroon ng "due process" ang mga akusado kung wala itong malinaw na depinasyon sa krimeng terorismo.

Ang mga karapatang ito ay nakasaad din maliban sa mga internasyunal na batas tulad ng Universal Declaration of Human Rights (UDHR) (Art. 3 at 9) at International Covenant on Civil and Political Rights (ICCPR) (Art 6 at Art. 9).

Posibleng masasagasaan din ng batas na ito ang ating karapatang maging malaya at hindi maaresto nang walang kaukulang 'warrant' pwera na lamang sa ilang pagkakataon

tulad ng aktwal na nahuling ginagawa ang krimen.

Ngunit sa Human Security Act of 2007, sinumang pinaghihinalaang terorista ay maaaring hulihin ng mga alagad ng batas kahit walang mandamyento o 'warrant'. Pinahaba rin ng batas na ito ang panahong pwedeng mapiit ang sinumang pinaghihinalaang terorista kahit wala pang naisasampung kaso laban sa kanya.

Batay sa ating rules of court, ang isang akusado ay maaari lamang ipiit habang iniimbestigahan ng 12 hanggang 32 oras, depende sa bigat ng kaso. Subalit sa HSA ito ay pinahaba ng hanggang tatlong araw o 72 oras.

At hindi pa nasiyahan, maaari pa rin itong pahabain ng tatlo pang araw at ng paulit-ulit kapag may karampatang pagsang-ayon ang korte.

### Ang karapatan ba nating mag-organisa ay maapektuhan din ng HSA?



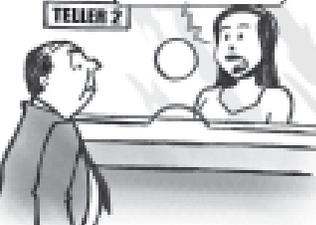
Oo sapagkat ayon dito, ang mga organisasyong pinaghihinalaang nagsasagawa o gagawa ng terorismo ay maaaring ideklarang iligal o terorista at tahasang huhulihin ang mga kasapi nito. Ito ay magdudulot ng takot sa mga mamamayang sumapi sa anumang organisasyong nagpapahayag ng mga hinaing sa pamahalaan, sa dahilang maaari itong pagbintangang nagpapalano ng mga terorismong aktibidad.

### Maaari rin bang malabag ang ating karapatan sa 'privacy'?

Sa ilalim ng batas na ito, sinumang indibidwal o organisasyong pinagsususpetsahang kasangkot o kasama sa planong terorismo ay maaring tiktikan sa pamamagitan ng pakikinig sa usapan sa telepono, pagbabasa ng mga liham at iba pa kung may permiso mula sa korte.



Ito ay malinaw na paglabag sa ating karapatan sa 'privacy' na nakasaad sa ating Konstitusyon at sa iba pang pandaigdigang batas sa karapatang pantao (Art.12 ng UDHR; Art. 17 ng ICCPR, at Art.III, Seksyon 3 ng 1987 Phil. Constitution).



### Apektado rin ba ng HSA ang ating karapatan sa pagmamay-ari?

Itinatadhana ng HSA na kapag may permiso ng korte, maaaring siyasatin ng



## Alamin ang inyong mga

# KARAPATAN

pamahalaan ang mga pag-aaring nakalagak sa banko ng isang indibidwal o organisasyon kapag may suspetsang ang iniimbestigahan ay terorista o sumusuporta sa mga terorista. Maaari nilang 'i-freeze' o mas matindi ay kumpiskahan ang mga pag-aaring ito.

Nilalabag nito ang Art. 3 Seksyon 1 ng ating Konstitusyon at Art. 17 ng UDHR.

### Anu-ano pang mga karapatan ang nilalabag ng naturang batas?

Nilimitahan na rin ng batas na ito ang karapatan sa paglalakbay ng isang akusado. Dati malaya pa ring nakapaglalakbay ang sinumang may kaso basta makapaglagak siya ng piyansa. Ngunit sa ilalim ng HSA, hindi na maaaring lisanin ng pinagsususpetsahang terorista ang kanyang lugar at maaari pa siyang ilagay sa 'house arrest.'

Taliwas ito sa ating karapatang nakasaad sa Art.13 ng UDHR, Art.12 ng ICCPR at Art III, Seksyon 6 ng ating Konstitusyon.

### Kailangan ba talaga ang batas na ito?

Maraming eksperto sa batas ang nagsasabing hindi na ito kailangan sapagkat dinuplika lamang nito ang mga batas sa ilalim ng kodigo penal. Anim sa tinukoy na gawaing terorismo ay nakapaloob na sa kodigo penal na matagal nang umiiral at may mga nakatakda nang kaparusahan. At anim pa sa mga gawaing binabawal ng batas na ito ay nakasaad na sa mga ispesyal na batas na nagkabisa na noon pang panahon ng Martial Law.

Sa halip, ang kailangang pagtibayin ay mga batas na magpapalakas ng proteksyon at pagsasakatuparan ng mga karapatang pantao tulad ng batas laban sa 'torture' at sapilitang pagkawala.

Isa ring halimbawa ng mga batas na ito ang lokal na bersyon ng 'International Humanitarian Law' na nagsasaad na isang krimen ang pananalakay, pananakit, o anumang uri ng pagdamay sa mga sibilyan sa panahon ng armadong tungalian.

Kung hindi pala natin kailangan ng HSA at makakasagasa pa ito sa ating mga karapatan, walang ibang dapat puntahan ang batas na ito kundi sa basurahan. ■

-Jonal Javier



■ Ni ATTY. RICARDO A. SUNGA III

**N**OONG 24 Oktubre 2007, naging epektibo ang *Rule on the Writ of Amparo* ng Philippine Supreme Court. Partikular ang aplikasyon ng proteksiyong dala ng bagong Writ sa mga kaso ng *extrajudicial killing at enforced disappearance*. Ang sanaysay na ito ay isang pagninilay sa ilang mga unang karanasan kaugnay ng *Writ of Amparo*.

### Epektibo o hindi?

Hindi kaila ang malaking implikasyon ng *Writ of Amparo*. Halimbawa ang mga kaganapan sa kaso nina Raymond at Reynaldo Manalo, magkapatid na dinampot ng mga armadong kalalakihan noong 14 Pebrero 2006 sa kanilang tahanan sa Buhol na Mangga, San Ildefonso, Bulakan. Sa isang sinumpaang salaysay, sinabi ng kanilang mga magulang na nakita nilang kasama sa pagdampot ang mga miyembro ng Citizens Armed Forces Geographical Unit (CAFGU) na kontrolado ng militar. Isang saksi ang gumawa



**Paghahanap: Isang miyembro ng Families of Victims of Involuntary Disappearances (FIND).**

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rin ng sinumpaang salaysay na nakita niya ang isang sarhento ng militar na nagmaneho ng sasakyan ng mga dumampot. Sa tibay ng ebidensiya, nagsampa ang pamilyang Manalo sa tulong ng Free Legal Assistance



# MGA HAMON NG WRIT OF AMPARO

Group (FLAG) ng kaso para sa Writ of Habeas Corpus sa Court of Appeals (CA G.R. No. 94431).

Naging malinaw sa kaso ang mga limitasyon ng Habeas Corpus. Madaling itinanggi ng mga miyembro ng CAFGU at militar ang anumang kinalamang sa pagkadamang ng magkapatid na Manalo. Sa kabila ng pagtanggap, human-tong ang kaso sa isang Desisyon kung saan inutusan ng Court of Appeals ang mga miyembro ng CAFGU na pakawalan sina Raymond at Reynaldo Manalo. Inapela ang Desisyon.

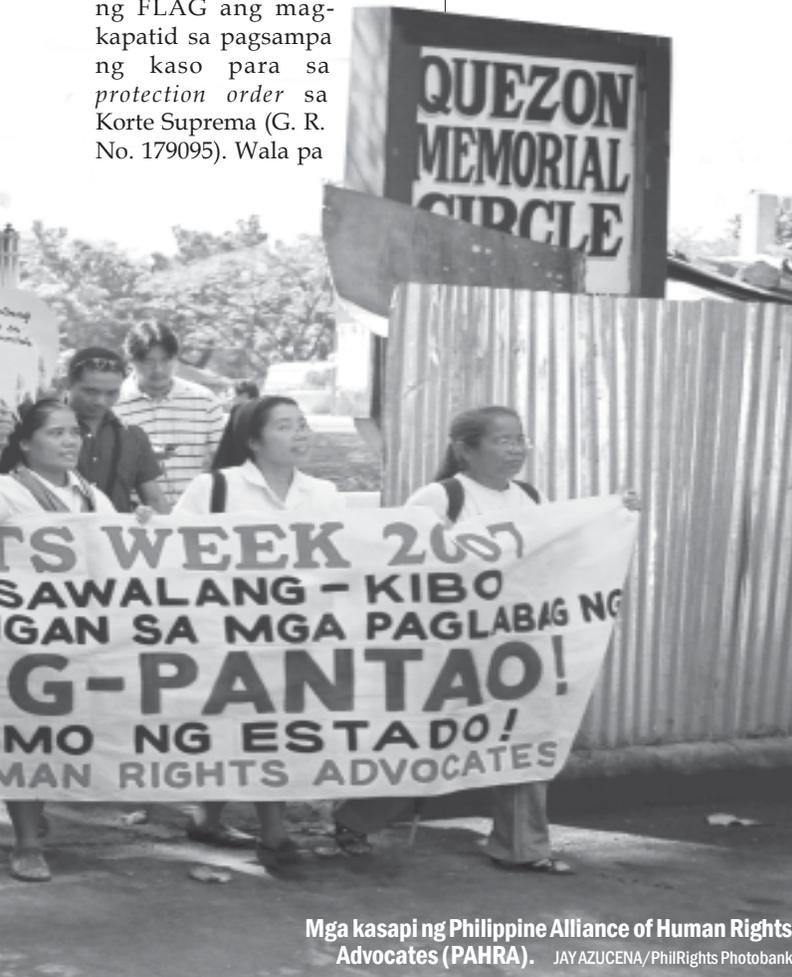
Habang nililitis ang apela, nakatakas ang magkapatid na Manalo. Tinulungan ng FLAG ang magkapatid sa pagsampa ng kaso para sa *protection order* sa Korte Suprema (G. R. No. 179095). Wala pa

**Tunay  
ngang ang  
bigay ng  
Writ of  
Amparo ay  
proteksiyon.**

.....



**Kasama ang mga anak, isang nanay na naghahanap ng kasagutan sa pagkawala ng kanyang mahal sa buhay.**  
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**Mga kasapi ng Philippine Alliance of Human Rights Advocates (PAHRA).** JAY AZUCENA/PhilRights Photobank

ang *Rule on the Writ of Amparo* noon.

Sa sinumpaang salaysay ng magkapatid na Manalo, ilinahad nila ang kanilang karanasan ng pagkakatampot at tortyur sa kamay ng militar. Humiling ang magkapatid ng *restraining order* para sa kanilang proteksiyon mula sa Pinakamataas na Hukuman, kung kanino pinili nilang ipagkatiwala ang kanilang buhay. Ipinagkaloob ng Korte Suprema ang *restraining order*.

Habang nililitis ng Korte Suprema ang kaso, lumabas ang

*Rule on the Writ of Amparo*. Trinato ng Korte Suprema ang kaso ng mga Manalo para sa *protective order* bilang unang kaso sa ilalim ng *Writ of Amparo*.

Kaugnay ng paglilitis ng kaso para sa *Writ of Amparo*, natapos ang pagdinig sa Court of Appeals na siyang inatasan ng Korte Suprema na tumanggap ng ebidensiya. Kasama sa naging Desisyon ng Court of Appeals ang deklarasyon na responsible, hindi lamang ang mga miyembro ng CAFGU, kundi pati ang mga opisyal ng

military, sa sapilitang pagkawala ng magkapatid na Manalo. May apelang isinampang maaring desisyon ng Korte Suprema anumang araw ngayon.

## Ilang obserbasyon sa implementasyon: kalakasan at kahinaan

Ang kahulugan ng pinagmulang banyagang salitang 'amparar' ay proteksiyon. Tunay ngang ang bigay ng *Writ of Amparo* ay proteksiyon. Kasama sa bigay na proteksiyon ang posibleng paglahok sa *Witness Protection Program* ng Department of Justice pati sa pribadong *sanctuary system*. Malaking bagay din ang mga *inspection at production order* na maaaring ilabas ng Korte. Sa mga benepisyong ito, ilan sa mga maaaring kalakasan ng *Writ of Amparo* ay ang mga sumusunod:

1. Sa *Rule on the Writ of Amparo*, malinaw ang polisiya laban sa *extrajudicial killing at enforced disappearance*. Ang paggalang ng mga karapatang pantao ang siyang pangunahing dahilan sa likod ng batas.
2. Walang *docket fee* sa pagsampa ng kaso para sa *Writ of Amparo*. Samakatuwid, libre sa bayad sa Korte ang pagsampa ng kaso. Malaking bagay ito dahil marami sa mga biktima ng *extrajudicial killing at enforced disappearance* ay mga mahihirap.
3. Mas mabigat ang hinihingi sa gobyerno laluna sa opisyal na *respondent* o mismong siyang inireklamo sa kaso para sa *Writ of Amparo*. Kasama sa mga hinihingi ang *Return* kung saan dapat ipaliwanag ang mga hakbang na ginawa ng mga *respondent* para matukoy ang kalagayan ng biktima ng



Patuloy ang panawagan ng mga 'human rights advocates' na itigil na ang pagpatay sa mga aktibista. PhilRights Photobank

*extrajudicial killing o enforced disappearance.*

4. Hindi maaring isumbat ng *respondent* na ang *petitioner* o siyang nagreklamo ay nasa isang "fishing expedition" lamang. Sa katunayan, isa ngang pakay ng *Writ of Amparo* ay ang pagbigay ng *respondent* sa *petitioner* ng lahat ng "relevant information."

Ilan naman sa mga maaaring kahinaan ng *Writ of Amparo* ay ang mga sumusunod:

1. Bagama't bawal na gumawa ang *respondent* ng "general denial" o malawakang pagtanggì, ang puno't dulo ng mga alegasyon sa *Return* ng *respondent* ay malamang na mauwi sa pagtanggì rin. Mabigat pa rin ang pangamba na patuloy ang pagtanggì ng *respondent* sa kabila ng pagbabawal.
2. Mas mahirap nga ang magpalusot ang *respondent* sa kaso para sa *Writ of Amparo* kaysa sa kaso para sa *Writ of Habeas Corpus*; ngunit sa kahulihulan, tunay ang takot na mauwi sa palusot din ang depensa ng *respondent* sa kaso para sa *Writ of Amparo*. Mas malikhain nga lamang ang palusot.

3. Bukod pa, maaring depensa sa hiling ng *petitioner* na "production order" o "inspection order" ay ang alegasyon ng *respondent* ng "national security." Bagama't ang Korte ay dapat magsagawa ng "hearing in chambers" para malaman ang katotohanan sa alegasyon, hindi malayong magpaikot-ikot ang *respondent* sa likod ng alegasyong "national security."

## Mga maaring direksiyon sa hinaharap

Maituturing na isang biyaya ang paglabas ng *Rule on the Writ of Amparo*. Isang simulain itong nagtataguyod ng karapatan sa buhay at ibang pangunahing karapatang pantao. Nawa'y magpatuloy ang simulain ito. Maraming direksiyon ang posibleng tahakin ng simulain. Ilan sa mga direksiyong partikular sa karanasan sa mismong *Writ of Amparo* ay ang mga sumusunod:

1. Maaring may kakulangan sa mga *sanction* na maaring ipataw sa mga *respondent* na nahusgaan nang responsable para sa mga *extrajudicial killing at enforced disappearance*. Sa kaso ng magkapatid na Manalo, halimbawa, sabi ng Korte na *responsible* para sa sapilitang pag-

kawala ng magkapatid na Manalo ang mga *respondent* na miyembro ng militar at CAFGU. Nakakalungkot na tumigil dito ang Korte at walang *sanction* na mapataw sa mga *respondent*. Isang maaring direksiyong babaybayin sa hinaharap ay ang ibang pang mga maaring *sanction* na higit sa *contempt* na kasalukuyang nakasaad sa batas.

2. Dapat tingnan din ang mga patakaran para sa mga pribadong *sanctuary* na "accredited persons or private entities." Para maging epektibo ang mga "persons or private entities" sa pagbibigay proteksiyon, napakahalaga ang *independence* nila at ang pagpapanatiling lihim ng kanilang pagiging *sanctuary*. Taliwas dito ang "accreditation" na nais ng Korte Suprema. Isang maaaring direksiyon para sa hinaharap ang mga patakaran magpapatibay sa mga pribadong *sanctuary*.

Marami ang nagsasabi na ang Korte Suprema, sa paglabas ng *Rule on the Writ of Amparo*, ay isang aktibistang Korte. Tanggapin man o hindi ng Pinakamataas na Hukuman ang bansag na ito, maaring tingnan bilang huwaran ang sinseridad at tapang nito laban sa *extrajudicial killing* at sapilitang pagkawala. Hindi naipit sa hungkag na mga salita lamang ang mga karapatang pantao para sa Korte Suprema. Nawa'y ang ibang mga sangay ng gobyerno ay mahawaan at sumunod sa pamumunong ipinamalas ng nito. ■

Si ATTY. RICARDO A. SUNGA III ay Deputy Regional Coordinator para sa Metro Manila ng Free Legal Assistance Group (FLAG). Siya ang humahawak sa kasong *Writ of Amparo* na isinampa ng magkapatid na Raymond at Reynaldo Manalo.

■ By VANESSA RETUERMA

**C**HILDREN'S involvement in armed conflict (CIAC) still remains a serious concern in the Philippines. Despite commitment to international legal framework and instituting national laws and policies to address the CIAC issue, the Philippine government's actual implementation of these laws and policies is still inadequate in protecting the lives of children who continue to be involved in armed conflict.



# SPARE OUR CHILDREN

## Alternative report on Philippines' implementation of the OPCRC-AC

On August 26, 2003, the Philippine government ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPCRC-AC). This is the most specific international law prohibiting the compulsory recruitment and use in hostilities of persons below 18 years old. On May 15, 2007, four years after ratification, the Philippine government submitted its initial report on the implementation of the OPCRC-AC to the UN Committee on the Rights of the Child (CRC). The submission of state party report is in line with the requirement of the OPCRC-AC for state parties to provide comprehensive information on the





Photos: VANESSA RETUERMA/PhilRights Photobank

measures it has undertaken to bring their legislation and practice in line with the provisions of the OPCRC-AC.

As a response to the Philippine state party report, the Philippine Coalition to Protect Children Involved in Armed Conflict (Protect-CIAC)<sup>1</sup> and the Southeast Asia Coalition to Stop the Use of Child Soldiers (SEASUCS)<sup>2</sup> submitted an alternative report to the UN Committee on the Rights of the Child in November 2007. The alternative report provides a civil society analysis and perspective on the government's implementation of the OPCRC-AC. The report highlighted the good practices, gaps and challenges faced in the implementation of policies, programs and other measures undertaken by the government in implementing the instrument.

The report indicated that in terms of instituting a national legal framework, the Philippines has adopted landmark laws that afford protections and safeguards to children in situations of armed conflict.

Even prior to the ratification of the OPCRC-AC, the Philippine government had already adopted in 1992 Republic Act 7610 (otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act). Article X Sec. 22 of RA 7610 declares children as "zones of peace" and stipulates that "children shall not be the subject of

attack and shall be entitled to special respect" and that "children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers or spies".

In November 2001, President Arroyo passed Executive Order No. 56 adopting the Comprehensive Programme Framework for Children Involved in Armed Conflict (CPF-CIAC). The framework calls for cooperation among the general public, media, non-governmental organizations (NGOs), government and the armed groups to work on advocacy and awareness raising on the CIAC issue, the prevention of recruitment and involvement of children in armed conflict, and the rescue, rehabilitation and reintegration of CIAC. The same executive order gave way for the creation of the Inter-Agency Committee on Children Involved in Armed Conflict (IAC-CIAC) composed of line government agencies mandated to develop plans and programs consistent with the implementation of the CPF-CIAC.

One of the major outcomes of the CPF-CIAC is the development of the Inter-Agency Memorandum of Agreement in the Handling and Treatment of Child Soldiers signed on March 21, 2000. The MOA sets out the procedure and stipulates the functions of relevant govern-



Through artwork, children from areas affected by armed conflict express their aspirations.





Children drawing for peace in the country.



ported from 2005 to the first quarter of 2007. Non-state armed groups documented with CIAC cases include the New People's Army (NPA), the Moro Islamic Liberation Front

ment agencies in each step or part of the process, from the time of surrender or rescue until the child is brought into the protective custody of the DSWD or local government authority. The MOA requires police and military authorities "to protect the child from further exploitation or trauma with no tactical interrogation or any similar form of investigation or use in military operations". In addition, it requires that the child be informed of his/her rights, be accorded with his/her basic needs, be protected from media exposure and be transferred to the DSWD or a local authority within 24 hours "under normal circumstances" and within "72 hours when the situation does

not warrant the turnover of the child within the prescribed period".

While these national legal and policy measures provide a crucial starting point towards stronger protection for CIAC, implementation of these laws and policy remains wanting.

The report highlights the following gaps and challenges in the implementation of the Optional Protocol:

- Despite the existence of child protection laws, children continue to be recruited and used in armed conflict. Protect CIAC was able to document 33 CIAC cases in both state and non-state armed groups re-

(MILF) and the Revolutionary Proletariat Army - Alex Boncayao Brigade (RPA-ABB). Although there are no documented CIAC within the Armed Forces of the Philippines (AFP), the report indicated that children continue to be recruited and used by government paramilitary groups, notably by the Citizens Armed Forces Geographical Units (CAFGU) and the Civilian Volunteer Organizations (CVOs). In some cases, captured or rescued CIAC from non-state armed groups are used by CAFGUs in their counter-insurgency operations.

- National laws and policy on CIAC, particularly the MOA on the Handling and Treatment of CIAC, are not

effectively disseminated and mainstreamed in the field offices at the provincial and city levels.

- The MOA on the handling and treatment of CIAC is largely ignored and violated, especially at the municipal and city levels. Documented cases contained in the report confirmed that some captured or rescued CIAC were detained by the military for extended periods before being transferred to the custody of the DSWD, which is a clear violation of the 24-72 hour timeframe specified in the MOA. The report also revealed cases where children have been subjected to physical violence and exposed to media scrutiny while in the custody of the military. In addition, the report indicated that military and local government officials continue to charge captured or surrendered CIAC with rebellion, illegal possession of firearms and other security-related offences in violation of Philippine laws. This reflects how CIAC are still largely viewed as perpetrators rather than victims of armed conflict.
- Despite national laws prohibiting the recruitment and use of children in armed conflict, there are no specific penalties or sanctions for violators. The absence of this crucial provision compromises the potential of the law as a deterrent to the practice of recruiting children in armed forces or armed groups.
- The issue of children's involvement in armed conflict remains to be excluded in the agenda of peace and ceasefire negotiations between the government and armed groups. The report underlines that the phenomenon of CIAC in the Philippines is intricately



VANESSA RETUERMA/PhilRights Photobank

**What about us? Participants in a children's peace camp.**

related to the overall problem of armed conflict in the country. Addressing the CIAC issue requires the recognition and commitment of all parties to the conflict. At present the CIAC issue has not been formally raised in the agenda of the peace talks with the NPA and the MILF, and the government has remained reluctant to do so because it is perceived that the issue is highly sensitive and might potentially paralyze ongoing peace talks.

- Factors underlying the involvement of children in armed conflict persist and remain largely unaddressed. The report emphasized that findings of several research on CIAC in the country show that factors such as poverty, lack of access to basic services, affiliation of another family member in an armed group, human rights abuses

brought about by militarization, developmental aggression, belief in political or religious ideologies, and the lure of material reward or compensation continue to drive children into being involved in armed forces or armed groups. Whenever these factors are present, resistance and armed conflict become an inevitable consequence. And when armed conflict exists, it is likely that children will become involved. Efforts towards preventing and ending the recruitment and use of children in armed conflict should ultimately address these underlying factors.

The report does not in any way underrate initial efforts by the government to address the CIAC issue. Rather, it highlights the current gaps and challenges that could guide government, non-state actors and members of civil society in strengthening

the implementation of the Optional Protocol to effect real protection to children who are involved or could be potentially involved in armed conflict.

In the end, the report underlines that efforts to address children's involvement in armed conflict require a complex and wide range of coordinated responses from government actors, non-state armed groups and members of the civil society, rooted in firm recognition and conviction that armed conflict is no place for children. ■

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VANESSA G. RETUERMA is currently working as the Regional Associate of the Southeast Asia Coalition to Stop the Use of Child Soldiers (SEASUCS).

**ENDNOTES**

<sup>1</sup> Protect-CIAC was formerly called the Philippine Coalition to Stop the Use of Child Soldiers (PCSUCS). The change of name was decided in July 2007.

<sup>2</sup> SEASUCS is a network of national and regional human rights, child-focused and humanitarian organizations working in Myanmar, Indonesia, Philippines and Thailand, that is proactively advocating for the protection of children involved in armed conflict (CIAC) in the Southeast Asian region.

The Optional Protocol to the UN Convention against Torture (OPCAT)

# A SIGNIFICANT MECHANISM FOR TORTURE PREVENTION

■ By ELLECCER 'BUDIT' CARLOS

## Towards preventing torture

SINCE THE early 70s, existing primary means to combat the practice of torture have gone two separate but complementing ways. The growing concern about the widespread and systematic use of torture led to the construction of legal norms and mechanisms to prohibit and prevent its practice. The negotiations led to the 1984 adoption of the United Nation's Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT) and its implementing body, the UN Committee against Torture. The UNCAT serves as the universal legal framework that bans the use of torture anywhere and under any circumstance.



Local and international civil society leaders during a forum for the ratification of the Optional Protocol to the UN Convention against Torture (OPCAT).  
Photos: BALAY Rehabilitation Center, Inc.

On the other hand, a group of international organizations also envisaged a new type of international human rights body to combat torture. The idea was to prevent rather than react to violations, premised on dialogue rather than confrontation with State parties. This idea was first introduced by the freedom from torture activist and retired Swiss banker, Jean-Jacques Gautier. After assessing the existing means used to battle torture in different parts of the

world, he concluded that the methods used by the International Committee of the Red Cross in ameliorating the conditions faced by prisoners of war and political prisoners were by far the most effective in preventing abuses. Hence the proposal to establish an international visiting system was conceived that would be grounded on regular inspections by outside experts to any place of detention at any time.





The Swiss Committee Against Torture, now called the Association for the Prevention of Torture, was set up as a platform for Gautier's advocacy. The idea attracted the interest of other international NGOs, notably Amnesty International and the International Commission of Jurists (ICJ), which then forged alliances with several states.

#### The Optional Protocol formula

Essentially, an Optional Protocol is an addition to an international treaty adopted at the same time or after the treaty. It introduces provisions and/or procedures absent from its parent treaty which is complementary to those present. It is in essence a legal strategy for states parties interested to update, enhance or reinforce the existing provisions of the original treaty. In the case of OPCAT, only state parties to the UNCAT are eligible to adhere to the Optional Protocol.

The OPCAT is designed to be a practical additional aid to state parties in carrying out their obligations to prevent torture and other forms of ill-treatment. The Philippines' adoption and implementation of the OPCAT will ensure better and more effective compliance to its obligations set forth in Article 2 of the UNCAT - to "take effective measures to prevent acts of torture in any territory under their jurisdiction."

## There is much to be done to humanize the conditions of places of detention in the Philippines.

The ICJ had pioneered the concept of a viable formula to attain a visiting scheme at the UN level. Since many states refuse admission to the UNCAT, the institution proposed that such a mechanism not be incorporated in the mother treaty but rather take the form of an Optional Protocol to the Convention. Among the Latin American states that developed an interest in this particular approach, Costa Rica took the initiative to formally submit a draft Optional Protocol to the Convention against Torture in 1980. The draft's examination was sadly postponed until after the adoption of the UNCAT.

Nevertheless, the promoters of the visiting mechanism shifted their efforts to establishing the system at regional levels. The Committee for the Prevention of Torture, through the Council of Europe's European



Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment came into force in February 1989. It has been visiting and examining places of detention since 1990 through its independent experts. The CPT's success in seeing the decline of incidents of torture and ill-treatment in Europe has validated the efficacy of regular visits to places where individuals are deprived of their liberty. Hence, the accumulated practical experience of the CPT had proven useful in providing guidance to putting the OPCAT in place.

In March 1992, the UN Commission on Human Rights established an open-ended Working Group to draft an Optional Protocol to the UNCAT. This began the ten-year process of conceiving the OPCAT at the UN, which eventually resulted in its adoption by an overwhelming majority (127 votes in favor, with only 4 against and 42 abstentions) at the UN Gen-

eral Assembly on December 18, 2002.

Under the OPCAT, 20 adhesions to the treaty are required before it could go into force and bring into practice the system of visits. In June 2006, the OPCAT finally entered into force. Currently, there are 34 signatures and 34 ratifications to the OPCAT globally. In Asia, only two countries (Maldives and Cambodia) had ratified the OPCAT.

The Philippines will be the third Asian country to ratify the Optional Protocol.

#### Conditions of places of detention in the Philippines

There is much to be done to humanize the conditions of places of detention in the Philippines. The subhuman existence of inmates can be ascribed to several major aspects which are deeply rooted in the Philippines' criminal justice system. The Philippine judicial system is wracked by anomalies and is



Photos: BALAY Rehabilitation Center, Inc.

awfully understaffed, making for over-congested courts and extremely slow judicial processes.

Since there is also an absence of an effective arbitration system at the community level, trivial disputes often end up as cases being filed. It is therefore not surprising why there is extreme overcrowding of remand centers or jails where individuals are awaiting or undergoing trial. Over-congestion is the most punishing aspect of doing time. It is dangerous to health and to human life. It breeds diseases, breaks down discipline, exacerbates tension and brutalizes the individual.

Dirty tap water, dingy toilets, sub-standard meals and medical facilities unfit for treating the most minor of complaints characterize the conditions in a typical facility in the Philippines.

The correctional system in the Philippines is fragmented into three custodial institutions

# THE CAMPAIGN FOR OPCAT RATIFICATION

THE LOCAL campaign for OPCAT began in August 2005 when the Rehabilitation & Research Centre for Torture Victims (RCT), a Copenhagen-based institution working for the eradication of torture at the international level and focused on the OPCAT ratification in many countries in the world, sent a representative to conduct a workshop on torture prevention as well as affirm the RCT's intent to support the Philippine lobby for the instrument.

The Association for the Prevention of Torture (APT), the Geneva based human rights lobby NGO and one of the institutions that conceived and pushed for the adoption of the OPCAT at the UN level, joined the efforts in April 2006. It co-sponsored with the RCT and the Task Force Detainees of the Philippines a Freedom from Torture seminar for civil society organizations. The delegation subsequently visited high level officials of executive departments to introduce and promote the instrument.

Since then, the United Against Torture Coalition (UATC) member organizations collectively promoted the Philippines' adhesion to the OPCAT at various levels. In 2006 and 2007, the awareness raising campaign went nationwide, targeting grassroots stakeholders and regional offices of executive departments and the Commission on Human Rights to gather support for lobby efforts.

Since the concurrence of the executive departments was necessary for the President's approval of the instrument, courtesy calls with the secretaries of executive departments were made. At the same time, lobby at the legislature was also carried out.

Meetings with mid-level officials of the various executive departments such as the DILG, DOH, DOJ and DND as well as relevant committees of the House



of Representatives were also held.

All these activities led to the National Multi-stakeholders Conference for the OPCAT in November 2006. The OPCAT campaign also produced the House of Representatives' resolution recommending the Philippines' adoption of the OPCAT and the Presidential Human Rights Committee's (PHRC) resolution (signed by all concerned department secretaries) recommending to the President the approval of the treaty.

The idea of piloting a regional initiative towards supporting country level campaign for the OPCAT came into being in February 2007. A Regional Working group was formed that included participating countries such as Cambodia, Sri Lanka, Bangladesh and the Philippines. For the Philippines, BALAY Rehabilitation Center served as the focal organization for the OPCAT campaign. The regional initiative was led by the Asian Human Rights Commission, with RCT acting as the over-all anchor for the campaign.

It was serendipitous to the OPCAT campaign that the Philippines became interested in having a seat at the soon-to-be es-

tablished UN Human Rights Council (the UNHRC replaced the UN Human Rights Commission). In its bid for a seat in 2006, among the GRP's pledges was "to strengthen domestic support for the ratification of the OPCAT."

The GRP subsequently gained a one-year term at the new UN body. It reaffirmed its pledges at the end of its term in 2007 and was re-elected for another three-year term.

As a member of the UNHRC, the Philippines was among the first batch of countries subjected to the Universal Periodic Review this April. The adhesion to the OPCAT was among the human rights commitments that the Philippine mission to Geneva had highlighted during this event. Upon the mission's return to the Philippines, the President's concurrence to the OPCAT was the first human rights concern they worked on and accomplished. The OPCAT was signed by President Arroyo and transmitted to the Senate President on April 22, 2008.

On the 28<sup>th</sup> of April, the Senate President formally endorsed the OPCAT to the Committee on Foreign Relations headed by Sen. Miriam Defensor Santiago. ■



**Working for an end to torture: participants in a multi-stakeholders forum on OPCAT.**

Photo: BALAY Rehabilitation Center, Inc.

overseen by three main entities, the Bureau of Jail Management and Penology, the Bureau of Corrections and the provincial governments that are in charge of provincial jails. There is no national standard that serves as a guidepost in maintaining acceptable living standards in the facilities or to monitor programs that aim to effectively reform individuals for reintegration into society as productive members. Each custodial entity is left to their own operation schemes.

Corrupt, poorly trained and underpaid correctional officers are common. They make up a correctional force that is exceedingly undermanned. In order to keep the institution moving, authorities adopt an alternative system of inmate governance by default. The gang system is the dominant program of action in the Philippines where authority is delegated to senior inmates.

Jail operations manuals are selectively implemented. Although order is kept, the use of violence in administering cell justice has become customary. Without these mechanisms, the jail system would simply collapse. Notwithstanding these realities, the correctional system

remains the least prioritized sector in budget legislation. Combined with a dysfunctional policing system, this retributive and punitive setup most often harden those deprived of their liberty.

**Customary instruments and legal mechanisms in the country**

Local and international legal frameworks clearly delineate the obligation of the Philippine government to take measures to prohibit and actively prevent the use of torture in the country. Likewise, other cruel, inhuman or degrading treatment or punishment are proscribed in their provisions as well. They are the following:

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”*

(Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights);

*“No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommu-*

**Corrupt, poorly trained and underpaid correctional officers commonly make up a correctional force that is exceedingly undermanned.**

*nicado, or other similar forms of detention are prohibited.”*

(1987 Philippine Constitution Art III. Sec. 12 (2));

The following six of the seven core UN treaties (to which the Philippines is a state party) have provisions that in one form or the other prohibit the use of torture and other forms of ill-treatment:

1. International Covenant on Civil and Political Rights and its two Optional Protocols (ICCPR)

2. International Covenant on Economic, Social and Cultural Rights (ICESCR)
3. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
4. International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
5. International Convention on the Rights of the Child (CRC)
6. International Covenant on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRAMW).

The seventh core UN treaty that we have adhered to is the comprehensive legal framework that deals with the universal understanding, prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment as well as victims’ access to restitution which is the *Convention Against Torture* or *UNCAT*.

*The Standard Minimum Rules for the Treatment of Prisoners* is a set of guidelines for international and domestic laws to uphold humane practices and principles in the treatment of indi-

viduals deprived of their liberty which includes the living conditions they are afforded by their custodians. Although it is not legally binding, the Philippine government institutions profess to having actively taken steps towards these universally set standards.

### **A novel system that is action-oriented**

The operational experience of entities such as the ICRC and the European Committee for the Prevention of Torture have demonstrated how regular visits to places of detention are effective in practice. *First*, because authorities in charge of places of detention shall be subjected to external control, this will have a deterrent effect since they do not wish to be subjected to external criticism. *Second*, visits allow independent experts to examine firsthand, without witnesses or intermediaries, the treatment of persons deprived of their liberty and to observe the conditions of the places where they are kept. Based on what has concretely been observed, experts can make realistic and practical recommendations and enter into dialogue with authorities so that the problems detected may be resolved. Finally, visits carried out by independent entities and individuals are an important source of moral support to those deprived of their liberty.

The OPCAT is an action-oriented system and differs from other treaties that are part of the UN system. UN human rights instruments and their monitoring bodies define rights and set out to receive and review reports or complaints submitted by state parties and other actors. This practice of complaints and condemnation is in no way at all employed in the OPCAT's modus operandi. The OPCAT approach is to provide expert's advice based on the state's circumstances as the basis for cooperative institutional reform. Confidentiality of communication and mutual trust are key principles of the OPCAT.

The novelty of the OPCAT

## **VISITING COMMITTEES OPERATING IN THE PHILIPPINES**

- The Philippine Alliance of Human Rights Advocates (PAHRA) Inter Agency Committee for Prisoners' Welfare & Rights, which include the Task Force Detainees of the Philippines, BALAY Rehabilitation Center and Medical Action Group.
- The Commission on Human Rights Assistance and Visitorial Office (CHR-AVO)
- Inter-Government Agency and NGO Committee for Prison Reform
- Legislative Committees at the House of Representatives and the Philippine Senate with Oversight Functions
- Department of Justice Magistrates mandated to conduct prison and jail inspections
- Office of the Ombudsman
- Public Attorney's Office (PAO)
- Prison Ministries e.g. Jesuit Prison Service (1994), the Catholic Bishops' Conference of the Philippines - Episcopal Commission on Prison Pastoral Care
- International Committee of the Red Cross (ICRC)

**For more information about the OPCAT campaign in the Philippines, visit [www.opcatph.com](http://www.opcatph.com).**

is emphasized in two other ways. *First*, the system that the OPCAT establishes places emphasis on preventing violations rather than reacting to them once they have already occurred. *Second*, it will establish a dual system of prevention at both the international and national levels through visiting bodies. These international and local visiting bodies will work in a complementary way. They shall meet and exchange information, if necessary on a confidential basis. The international body can offer training and technical assistance to its local counterpart to enhance their capacities. This complementary relationship is expected to ensure the effective implementation of international standards at the local level.

The OPCAT basically consists of international and local mechanisms. Visits are at the core of the mandates of the international and local arms. The international mechanism which was established in December 2006 (elections among candidates nominated by states par-

ties to the OPCAT) is called by the Subcommittee on Prevention which is directly responsible to the Committee Against Torture, its parent UN body.

Because the number of states that have ratified the OPCAT is below 50, there will be 10 independent experts that shall comprise the Subcommittee on Prevention. Upon exceeding 50 ratifications, the number of experts appointed to the Subcommittee shall become 20. The subcommittee will conduct in-country visits in all states parties to the OPCAT. Following the visits, the subcommittee will generate a report containing recommendations to relevant authorities. The report will remain confidential unless the state party gives its consent for publication.

Given the many states that the subcommittee has to visit, the bulk of the visits within countries shall be performed by the local arm, known to be the OPCAT's main engine (officially referred to by the instrument as the National Preventive Mechanism/s). When the OPCAT enters into force, within one year

of ratifying or acceding to it, states parties must have in place one or several national preventive mechanisms. The OPCAT's provisions do not specify a particular type of national preventive mechanism. It stipulates the following basic criteria:

- Functional independence, meaning they should be separated in some way from the executive and judicial administrations.
- Required capabilities and professional knowledge to carry out their mandate.
- Necessary resources to function effectively

The NPMs are to be established or existing bodies may be designated by the state based on the need of the country. Examples of institutions that were designated NPMs under the OPCAT system already installed elsewhere are the national human rights institutions, the Ombudsmen, the parliamentary commissions or the NGOs. The NPMs must be able to operate without any interference from state authorities.

It is upheld by many who have been focused on the OPCAT's design that a pluralistic, multidisciplinary composition is the most appropriate, to include lawyers, doctors (forensic specialists and psychologists), NGO representatives, as well as specialists in issues such as human rights, humanitarian law, penitentiary systems and the police.

Unlike the Subcommittee on Prevention, the NPMs may make their observations and recommendations public. Like the Subcommittee on Prevention, the NPMs are mandated to conduct regular and follow-up visits to places of detention and assess living conditions and the treatment of those deprived of their liberty. After visits, they are required to transmit their recommendations and observations to the State. The State has an express obligation to examine the recommendations of the Subcommittee or the NPM and enter into a dialogue with it on

implementing proposed measures. The Subcommittee and the NPMs are guaranteed the following powers:

- Access to information concerning the number of persons deprived of their liberty, as well as the number of places and the location;
- Access to all information referring to the treatment of those persons as well as their conditions of detention;
- Access to all places of detention and their facilities;
- An opportunity to have private interviews with persons of their choice;
- The liberty to choose the places to be visited.

The places which shall be visited by the Subcommittee on Prevention and the National Preventive Mechanisms are broadly defined by the OPCAT's provisions. They are to be all places where individuals are deprived of their liberty and should include but not be limited to: police stations; security force stations; all pre-trial centers, remand detention centers, prisons for sentenced persons; juvenile centers; immigration centers; psychiatric institutions, places of administrative detention and drug rehabilitation centers.

In essence, with the Philippines' adhesion to and effective implementation of the OPCAT, the country's places of detention will be successfully opened to independent national and international scrutiny.

### **OPCAT's advantages to the Philippines**

#### **As a practical tool to assist the government to comply to existing obligations**

The OPCAT will be an effective aid for the Philippines to put in effect its obligations to take measures to prevent torture and other forms of ill-treatment. The instrument will help in the fulfillment of obligations to other treaty bodies besides the Convention Against Torture that also define the need to pro-

tect individuals deprived of their liberty, such as children and women.

#### **A system to advise the government on legislative reforms**

Since the Subcommittee on prevention and the NPM will be made up of recognized experts in the field concerning individuals deprived of their liberty, they will be well positioned to provide the government with useful, practical and expert advice on future legislative reforms.

#### **A new source of international financial assistance**

A special fund will be made available to states parties to finance their implementation of recommendations made by the subcommittee or the NPM. This fund is open to states which are willing to improve the conditions of places of detention but face financial limitations.

#### **Expert advise and training**

The Subcommittee on Prevention can recommend that international experts assist the NPMs in providing trainings and advise on how to enhance the competencies and professionalism of those in charge of the treatment of individuals deprived of their liberty, including the law enforcement and members of the visiting mechanism. In the Philippines, we face intricate social and institutional problems and shall definitely be in need of external technical assistance.

#### **Credibility to lobby the OPCAT elsewhere**

In adopting the OPCAT in our own territory, the Philippine government and civil society organizations have already gained moral ascendancy to lobby the OPCAT elsewhere in the world for the advancement of human rights and the protection of Overseas Filipino Workers. Many Filipinos are at risk of being subjected to torture, ill-treatment and even execution once admitted to places of detention in host countries where they have chosen to work. OPCAT adoption in other coun-

tries will help deter human rights violations that may befall our *kababayans* abroad. We might even set the tone for other countries to ratify and implement the OPCAT.

#### **Ratification and effective implementation**

While OPCAT has already been ratified, putting the instrument in place as an effective system in the Philippines is the greater challenge. The more arduous task lies in seeing through the government and civil society organizations' sincere steps to effectively implement it.

An enabling law needs to be crafted to serve as the legal framework for making the treaty operational at the country level. The most challenging aspect of local implementation is the design of an effective and appropriate national preventive mechanism that should be embedded in such a law.

Although the contractual obligation of the Philippines to the Subcommittee on Prevention is fairly simple and clearly outlines the task that lies ahead, to determine what NPM form will best work in the country is far from easy, especially that the Protocol does not elaborate how this will be achieved.

Apart from the significance of thematic independent experts, the civil society organizations' participation is also quite relevant especially with the best practices in prison visits that may be found from their experiences. Their contributions may be incorporated in the system at least for monitoring and oversight in the practice and operations of the NPM. This type of NPM structure can already be seen in other countries that have set up their own in compliance to the OPCAT.

The geographical aspect of the work that the NPM will be doing is an important factor to consider in its design. Covering an entire archipelago makes methods of visiting quite challenging. Thus, an important question that needs to be addressed is whether our country's NPM will be a highly central-

ized body or a loose aggrupation of provincial bodies - or a combination of both.

Certainly, there is a need for a central institution that would coordinate and harmonize the entire system. But the most relevant consideration is that both independent organizations and the government must put in much effort in doing the necessary research and other means to draw up a model that best suits and is advantageous. It is important to note that the Philippine government has the option to create a new NPM or appoint an existing body such as the National Human Rights Institution.

If that situation happens, there is danger that the implementation of the OPCAT in the Philippines - as with most of the treaties that the government agreed to be bound to - may be reduced to a mere charade. This is especially true if the operational procedures, the policies and practices and even the mandate of the Commission on Human Rights do not see changes that meet the criteria as stipulated in the instrument.

Non-government organizations should seriously consider establishing well grounded standpoints on effective NPM forms. This should be arrived at after a process of consultations and serious studies on the local conditions, best practices among groups already conducting visits, and the selection process for the NPM candidates, among other considerations.

At any rate, civil society organizations need to ensure that they are a part of the NPM design negotiation process every step of the way. And should CSOs decide to lobby for a composite mechanism, i.e., a system that combines existing institutions inclusive of participating experts and independent organizations, some CSOs may need to decide on the role that they would like to play within the framework of NPM's work. ■

*BUDIT CARLOS is the Advocacy and Campaign Focal Person of BALAY Rehabilitation Center, Inc.*



# ENGAGING GOVERNMENTS THROUGH THE UPR PROCESS

■ Text & photos by **RENATO G. MABUNGA**

*"Every day we are reminded of the need for a strengthened United Nations, as we face a growing array of new challenges, including humanitarian crises, human rights violations, armed conflicts and important health and environmental concerns. Seldom has the United Nations been called upon to do so much for so many. I am determined to breathe new life and inject renewed confidence in a strengthened United Nations firmly anchored in the twenty-first century, and which is effective, efficient, coherent and accountable."*

UN Secretary-General Ban Ki-moon

**I**N 1997, and again in 2002, reforms in the United Nations gained ground in Geneva and New York, respectively. These reforms came in the heels of then-Secretary General Kofi Annan's challenge to the UN's "continued significance" in the face of 21<sup>st</sup> century realities. He called for improvements in how the UN conducts its work, implements its mandate and manages the funds entrusted to it by its Member States in order to bring human rights to all peoples of the world.

These reforms took a significant turn during the General

Assembly's 60<sup>th</sup> session. The world's leaders adopted UNGA Resolution 60/251 on the 15<sup>th</sup> of March 2006, which created the Human Rights Council. The HR Council is now a subsidiary organ of the General Assembly, taking over the role of the Commission on Human Rights, which was created under article

68 of the UN Charter on Economic and Social Council (ECOSOC). The HRC was mandated to conduct a Universal Periodic Review (UPR), a mechanism to evaluate each member state's human rights commitments. The said review shall be a cooperative mechanism, based on an interactive dialog, with the full involvement of the country concerned and with consideration given to its capacity-building needs. The UPR is intended to complement and not duplicate the work of treaty bodies.

At its fifth session on June 18, 2007, the Council responded to this request and adopted, through resolution 5/1, detailed modalities regarding the UPR. Threshed out in particular were the basis of the review, principles and objectives to be followed, the periodicity and order of review of countries, process and modalities, as well as the outcome and the follow-up to the review. The HRC also decided that the review would be conducted in one working group composed of the 47 member States of the Council.

At its sixth session on September 21, 2007, the HRC adopted a calendar in relation to the consideration of 192 Member States of the United Nations for the first four-year cycle of the UPR mechanism. The Philippines was selected among the 16 countries to be reviewed in the 1<sup>st</sup> UPR session on April 7-18, 2008.

As preparation for review, HRC required the concerned governments and other stake-



**Renato Mabunga of the Philippine Alliance of Human Rights Advocates (PAHRA) presents a human rights report at the UN in Geneva, on behalf of 29 civil society organizations (top). Outside the UN headquarters (above).**

holders to submit human rights reports, which should follow the following guidelines:

1. Description of the methodology and the broad consultation process followed for the preparation of information;
2. Background of the country under review and framework—normative and institutional—for the promotion and protection of human rights: constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations identified in the “basis of review”;
3. Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the “basis of review”, national legislation and voluntary commitments, national human rights institutions’ activities, public awareness of human rights, cooperation with human rights mechanisms;
4. Achievements, best practices, challenges and constraints;
5. Key national priorities, initiatives and commitments that the State intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground;
6. Expectations in terms of capacity-building and requests, if any, for technical assistance;
7. Presentation by the State of the follow-up to the previous review.

Following these guidelines, the Office of the High Commissioner for Human Rights



(OHCHR), issued information relevant to NGO engagement. In urging NGO engagement, the OHCHR emphasized that the UPR should be seen as a process, composed of several steps in accordance to the HRC Resolution 5/1 of June 18, 2007:

1. States are encouraged to prepare the information they submit “through a broad consultation process at the national level with all relevant stakeholders,” which include NGOs;
  - a. NGOs may wish to ensure that they are included in the broad consultation process at the national level organised by the State for the purpose of the preparation of the information to be submitted to the UPR;
2. Other relevant stakeholders, including NGOs, may submit additional information in a 5-page document. Input received from stakeholders will be summarized by the OHCHR (the summary shall not exceed 10 pages);
3. Other relevant stakeholders, including NGOs, may attend the review in the working group;
4. Before the adoption of the outcome by the plenary of the Council, the State concerned should be given the opportunity to reply to

questions or issues raised. Other relevant stakeholders will have the opportunity to make general comments before the adoption of the outcome by the plenary;

5. The UPR outcome should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders, including NGOs.

In October 2007, the Philippine Alliance of Human Rights Advocates (PAHRA) called for a training-workshop on the UPR process, to enable Philippine Human Rights NGOs to engage the Philippine State in the UPR and to formulate a specific program for NGO engagement. Specifically, the workshop aims were:

1. A firm understanding of the UN reform developments in the UN human rights system and how these developments are relevant to national HR work;
2. Determine why (or why not) participating human rights NGOs should (not) engage in the UNHRC-UPR on the Philippines, and to determine the extent of engagement;
3. Identify the main issues that will be engaged in by the participating Philippine NGOs;

4. Decide the main forms of NGO engagement in the UPR, identify targets and allies;
5. Decide on a specific timeline and organization of work for the next two months; and
6. Reflect on the role of Philippine NGO engagement in the UPR within a broader international advocacy strategy.

Thirty Philippine civil society organizations took part in the training-workshop and decided to engage the Philippine government in the UN-UPR process. They identified key human rights issues and concerns on the ground, the Philippine government’s voluntary pledges and commitments made during its candidacy to the HRC, the existing mechanisms (both local and international) that protect and promote human rights, and the gaps in the promotion and protection of human rights vis-à-vis these mechanisms. Committees were constituted for the gathering of data, drafting, validation and submission of the NGO report.

On November 20, 2007, the “*Joint Submission by NGOs with Consultative Status and Endorsed by 29 Civil Society Organizations (JSNGO)*” was received by the OHCHR. This was the official title of the NGO submission initiated by PAHRA, which was quoted 11 times in the OHCHR collation of reports. The JSNGO report was only one of the 31 civil society submissions to the UPR, including that of the Commission on Human Rights-Philippines (CHRP).

#### **UPR lobby work**

Upon the official acknowledgement of the JSNGO report by the OHCHR, the secretariat for the UPR process (PAHRA through its International Affairs Committee) embarked on both local campaign and international lobby. Information dissemination and dis-

cussion of the report with various stakeholders, including the media, highlighted the local initiatives. The international lobby included appointments with individual heads of various permanent missions in Geneva, meetings with the different UN Special Procedures in relation to their mandates, and establishing links with international NGOs and exploring possible areas of cooperation and complementation of work. A Philippine Lobby team was composed to form the PAHRA delegation to Geneva.

The team met and discussed issues with various Permanent Missions and representatives of the offices of Special Procedures. While representatives of the Special procedures welcomed the team in their offices, meetings with country-diplomats were conducted during session breaks. Though meetings were informal, the discussions raised serious issues and concerns. The lobby succeeded in getting the commitments to bring to the session questions and recommendations regarding HR in the Philippines.

Countries like France, Canada, India, Mexico, Slovenia, Ghana, Thailand, Japan, Guatemala, Republic of Korea, Switzerland, UK, USA, Australia, Malaysia and the offices of the special rapporteurs on Torture, Human Rights Defenders, Terrorism, Internally Displaced Persons, Violence against Women, Enforced Disappearance and OHCHR were among the groups the team was able to meet.

Out of the 18 Country Missions the team reached, 17 missions spoke during the interactive dialogue. 16 Missions carried the team's questions and recommendations while 1 (Thailand) only praised the Philippine Government and Malaysia declined to intervene, as it was a troika member for the Philippine review.

On Thursday, April 10, 2008, the Philippine lobby team together with other international NGOs and various government missions were invited to a lun-

COUNTRY	INTERVENTIONS, QUESTIONS, AND RECOMMENDATIONS
<b>New Zealand</b>	Gaps on services on the issue of violence against women. Rehabilitation of children and women victims of human rights violations. Inquired about "gender responsive approach" in the judicial system.
<b>Pakistan</b>	Praised the Philippine government.
<b>India</b>	Inquired into the functions of the BHRAC and appointments of BHRAOs. Inquired on the issues of migration particularly the brain-drain effects.
<b>Singapore</b>	Inquired about efforts to combat corruption and solve extra-judicial killings, but the inquiry was presented in such a manner as to erode the essence of the question.
<b>China</b>	Inquired into the poverty issue and specific cases and challenges in combating trafficking of women.
<b>Canada</b>	Raised concern about the few convictions related to EJK cases. Inquired on the recommendations of the Melo commission, TF Usig and the Special Rapporteur on EJK. Inquired into the limiting attempts of executive orders in the search for justice of EJK and enforced disappearance victims. Inquired about the protection of HRDs.
<b>Slovenia</b>	Relayed the intention of Alston to visit the Philippines to input on its final report. Inquired into the implementation of the Alston recommendations. Recommended accession to CED and OPCAT.
<b>Cuba</b>	Requested additional information on the experience and programs on poverty alleviation particularly on poverty indicators.
<b>DPRK</b>	Requested sharing of strategies on program implementation related to women's rights.
<b>Turkey</b>	Looked for the advantages and disadvantages on using the traditional judicial systems among IPs. Inquired into the legal framework on women's rights and the need for assistance.
<b>Holy See</b>	Inquired about protection of migrants. Proposed complete elimination of torture. Reiterated calls against abortion.
<b>Italy</b>	Inquired about the legislative gaps on children. Inquired about the integration of Human Rights in the school system.
<b>France</b>	Expressed worries about the few convictions on EJK and ED cases. Inquired about the implementation of Alston's recommendations. Inquired about the plans of blocking recruitment of children in armed groups. Inquired into the budget of the CHRP.
<b>Thailand</b>	Praised the Philippine government.
<b>Norway</b>	Inquired about concrete steps to resolve EJK of HRDs. Followed up the Alston recommendations.
<b>Japan</b>	Inquired on the issues and additional measures on Women and EJK. Looked into the facilitation of cooperation with various stakeholders.
<b>Algeria</b>	Inquired into the measures of addressing the root causes of migration and its effect on children.
<b>Syria</b>	Requested information on plans regarding migration and over-population.
<b>Tunisia</b>	Requested information on the difficulties and challenges related to labor issues.
<b>Latvia</b>	Recommended extending invitation to all Special Procedures.
<b>Guatemala</b>	Inquired into the experience of bilateral agreements with the receiving countries on issues of migration.
<b>Sudan</b>	Recommended sharing experience on the justiciability of ESC rights.
<b>Egypt</b>	Requested information on the systems installed related to migration. Recommended human rights education to all migrants before leaving the country. Expressed concerns regarding the protection of the rights of the minorities.
<b>Republic of Korea</b>	Inquired into the plans of protection and promotion of the rights of the vulnerable groups particularly the IPs. Inquired into the policy measures regarding migration and women, particularly trafficking. Recommended ratification of OPCAT and CED.

COUNTRY	INTERVENTIONS, QUESTIONS, AND RECOMMENDATIONS
<b>Russia</b>	Inquired about the protection of IPs. Recommended consultations with civil society organizations.
<b>Australia</b>	Inquired about the role of NHRI in the promotion and protection of human rights. Requested for updates on the matter.
<b>Switzerland</b>	Inquired into the problem on impunity. Recommended stepping up of investigation of EJK cases. Recommended adoption of a long-term approach in resolving underlying causes of EJKs.
<b>United Kingdom</b>	Requested for details regarding resolution of EJK cases and concrete follow-up measures in implementing the Melo and the Alston recommendations. Inquired about the peace process in Mindanao. Inquired about the process of involving CSO in the process of resolving issues. Inquired about the measures undertaken on issues of corruption and justice to victims. Recommended ratification of OPCAT.
<b>Belarus</b>	Praised the Philippine government.
<b>Cameroon</b>	Inquired about the difficulties encountered in delaying reports to treaty bodies. Inquired about the protection of street children.
<b>Azerbaijan</b>	Expressed concerns regarding the limited mandate and resources of the NHRI. Inquired about the national plan in combating trafficking. Voiced concerns about the reported low budget for institutions.
<b>Netherlands</b>	Recommended criminalization of torture in domestic laws. Inquired about follow-up efforts to address EJK and enforced disappearance.
<b>USA</b>	Raised concerns regarding EJK and the slow prosecution. Inquired into plans of compliance to HR principles among law enforcers.
<b>Palestine</b>	Praised the Philippine government.
<b>Bangladesh</b>	Asked for additional information on managing migration.
<b>Nigeria</b>	Recommended efforts for the protection of vulnerable groups. Inquired into the issue of poverty.
<b>Iran</b>	Asked for elaboration on actions against human trafficking.
<b>Brazil</b>	Inquired about the civil and political situation particularly institutional changes to address EJK. Recommended issuance of standing invitation to special procedures.
<b>Mexico</b>	Recommended that the national human rights action plan consider reporting to treaty bodies. Concerned about the issue of children and women. Recommended accession to OPCAT and CED.
<b>Indonesia</b>	Expressed concerns on inclusive participation of all stakeholders in the HR processes.
<b>Sri Lanka</b>	Inquired about the specific measures on migration's problem of "brain-drain" and the social problems it creates.

#### THE PHILIPPINE MISSION'S RESPONSE TO THE ISSUES AND QUESTIONS RAISED:

On Violence against Women, trafficking of persons, women's rights	Programs of gender mainstreaming in the judiciary are being implemented. Proposed magna carta on women is pending in congress. Laws and programs are laid for the protection of women, particularly regarding trafficking of persons. Patriarchal values still exist. Provided opportunities to stakeholders to implement projects. There are existing laws protecting vulnerable groups.
On poverty alleviation indicator	The Philippines is using Community-Based Data Collection and Community-Based Monitoring System.
On migrants	Assistance to migrant workers; Migrant Act, legal assistance and appeals, PDOS.
On child rights	Filed bills in Congress related to foster care, illegitimate children, pornography, etc.
On the Alston report	Pro-active in the resolution of cases of EJK. Establishment of TF 211 with 37 cases handled at present. Transparent in the implementation through web information. Delisting HRD from the Order of Battle.
On IPs	Gave a presentation of IPRA.

cheon with the Philippine government panel hosted by Executive Secretary Eduardo Ermita, head of the panel. Then civil society representatives met with the government panel, during which the lobby team pointed out the gaps in the government report and gave recommendations for the government to consider. Issues like extrajudicial execution, torture, and housing and policies such as EO 197 and the Mining Act, all detrimental to human rights protection and promotion, were raised. Recommendations like issuance of standing invitation to all special procedures, accession to OPCAT and CED, reporting to the treaty bodies and meaningful involvement of CSOs in government human rights processes were forwarded.

#### Side events

Aside from meeting various delegations in Geneva, the team managed to present the JSNGO report to various international audiences, including Filipino communities in Switzerland.

On March 19, 2008, the first civil society UPR side event on the Philippines was organized by Diakonie/ Action Network Human Rights, Amnesty International and the World Council of Churches. Missions from Canada, Switzerland and Slovenia, together with the OHCHR-Asia Pacific Unit and INGOs, attended the event.

On April 11, 2008, hours before the Philippine review, the Philippine Civil Society was able to share its experiences on the preparation of the UPR process in the Philippines. This was jointly sponsored by the International Federation of Human Rights (FIDH), Forum Asia, Human Rights Watch, OMCT and PAHRA at the Palais des Nations. It was attended by Permanent Missions, the OHCHR, various International Non-Government Organizations and representatives from the Philippine Commission on Human Rights.

Gaps and challenges that need immediate attention by all stakeholders in the Philippines, particularly the state, as identified



by the 31 separate submissions of civil society organizations.

Had it not been for the vigorous NGO lobby for civil society participation in the UPR process, the side events would not have pushed through. There was reluctance on the part of the OHCHR Civil Society Unit to allow country-specific forums without the concerned government's endorsement, due to pressure from some HRC members. In particular, some leaders from Arab and African nations were not open to NGO participation. They viewed NGO forums as venues for criticism and attacks against governments. As an attempt to block civil society voices, they drafted and circulated a non-paper modalities of the UPR which would have limited – if not closed off – NGO engagement within the UPR process.

It is also important to note that while many NGOs pushed for the side events as improvements in a still-developing process, some International NGOs based in Geneva were willing to accede to government restrictions. It was their view that NGOs should not push the issue of the side event as it might result in a backlash to the overall NGO engagement in the whole UPR process. The OHCHR's granting of the side events proved them wrong.

The UPR Process of the Human Rights Council, though still evolving in terms of procedures and modalities, presents a venue for civil society organizations to engage governments on the

real condition of human rights on the ground. It is with no illusion though that the process has a ready-made provision for CSO engagement. The process is a continuing challenge to assert CSO participation. As a process, it gives other governments a chance to look into the actual HR situation within a country through the reports of civil society organizations. The nature of engagement the CSOs bring into the process will determine the relevance of the process to the people and communities they serve.

It must never be forgotten that the UPR Process is a national process. As long as national CSOs remain grounded and continually engage their governments on the concrete human rights condition, the UPR as a whole will serve as window of opportunity for the continuing promotion and protection of human rights on the ground.

UPR is a also a state process. Thus, when engaging in the UPR, NGOs should entertain no illusions that the process is primarily for civil society. But as long as avenues for engagement are presented, civil society must not default from its duty to rise above pre-conceived ideas of "government propping up government."

.....  
*RENATO MABUNGA is the Secretary-General of the Philippine Alliance of Human Rights Advocates (PAHRA).*

HRC GENERAL GUIDELINE	HR GAPS AND CHALLENGES
Background and Framework Scope of International Obligation Constitutional and Legislative Framework	Ratified Core Int'l Human Rights Treaties except OP-CAT, CPD, CPD-OP and CED. Pending overdue reports: CERD 15 <sup>th</sup> to 19 <sup>th</sup> periodic reports overdue from 1998 to 2006 respectively; CESCR 2 <sup>nd</sup> to 4 <sup>th</sup> periodic reports overdue since 1995, submitted in 2006, to be reviewed in 2008; HR committee report overdue since 2006; CAT 2 <sup>nd</sup> to 5 <sup>th</sup> periodic reports overdue from 1992 to 2004 respectively; CRC 3 <sup>rd</sup> and 4 <sup>th</sup> periodic reports due in 2007; CRC OP CP initial report overdue since 2004; CMW initial report overdue since 2004.
Institutional and Human Rights Structure	Limited mandate and resources of the CHRP as reason for lack of efficient performance. Assertion of CHRP as an independent monitoring and investigation body on human rights. Involvement of civil society in consultations and project implementation on issues of human rights particularly with the Presidential Human Rights Committee.
Institutional and Human Rights Structure	Willingness or unwillingness of the Philippines to issue Standing Invitations to all Special Procedures.
IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS	
Equality and Non-Discrimination	Finding the necessary steps to adopt legislation explicitly prohibiting discrimination. Need to strengthen human rights education to forestall manifestations of intolerance and <i>de facto</i> discrimination.
Right to Life, Liberty and Security of Person	Institutional and technical capacity to ensure the functionality of National Action Plans e.g. "Child 21" and its medium-term plan called National Plan of Action for Children (NPAC); National Human Rights Action Plan including local mechanisms for the protection of human rights. Effective measures to prevent extrajudicial killings including that of children and to investigate thoroughly all alleged cases of killings and to bring perpetrators to justice. Guarantee free access to legal counsel and doctors immediately after arrest and during all stages of detention.  Policy pronouncement/ executive order to the Armed Forces and the National Police reiterating the prohibition of extrajudicial killing.  Vigorous investigation and prosecution of state agents implicated in extrajudicial killings or enforced disappearances, particularly those identified by the Melo Commission report. Effective enforcement of HR legislation.
Right to Social Security and to an Adequate Standard of Living	Establishment of a legal framework for the promotion of gender equality and women's rights to ensure gender discrimination is addressed across all sectors, including indigenous and Muslim women, and in all spheres.  Gaps in adequate protection of ancestral lands of indigenous peoples from potentially harmful development projects and enforcement of requirement to obtain free and informed consent of affected communities prior to the initiation of any commercial activities on their lands. Pursuance of bilateral agreements and memoranda of understanding with countries and regions to which Filipinos migrate and work.  Addressing the root causes of migration, including the creation of conditions necessary for sustainable development and of safe and protected jobs for women as a viable economic alternative to migration or unemployment.  Addressing the social costs and effects of migration, including issues such as the adverse effects of migration on the family, particularly children, as well as tackling the reintegration of overseas Filipino workers.  Urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with the State's human rights obligations.  Comprehensive plan for rehabilitation program of internally displaced persons and communities especially among areas affected by armed conflict.

NOT JUST ANY DOCUMENT

# THE UNIVERSAL DECLARATION OF HUMAN RIGHTS TURNS 60

## *Preamble*

*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,*

*Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,*

*Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,*

*Whereas it is essential to promote the development of friendly relations between nations,*

*Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,*

*Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,*

*Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,*

*Now, therefore,*

*The General Assembly,*

*Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*

2008 MARKS the 60<sup>th</sup> anniversary of the UDHR. Since its adoption in 1948, the UDHR has brought far-ranging changes on the quality of human life all over the world, although not in the same degree between societies. This landmark document, a product of years of diplomacy and debate, offers hope to hundreds of millions of people the world over who long for a better quality in life.

The UDHR is the most widely translated document ever, with at least 360 translations to date. During the World Decade for Human Rights Education (1995-2004), several UN agencies and departments, with the cooperation of governments, the academe and international, regional and grass-roots NGOs, launched a project to have the Declaration translated into as many languages and dialects as possible.

The declaration consists of a preamble and 30 articles that touch on a broad range of fundamental human rights and freedoms to which all persons are entitled. Over time, the UDHR has been accepted as a contract between governments and their peoples. Virtually all states have accepted it.

On December 10, 2007, the UN Secretary-General launched a year-long campaign urging the members of the United Nations to take part in the 60th year commemoration of the Declaration, which will culminate on December 10, 2008.

With the campaign theme *"Dignity and justice for all of us,"* the UN wants to reinforce the vision of the Declaration as a commitment to universal dignity and justice and not simply as a luxury or a wish-list.

This year-long commemoration aims to continue to raise awareness of the Declaration and its relevance to people – especially the poor and marginalized sectors – around the world. It also hopes to get

the wide participation of individuals and institutions to make the Declaration a reality for all. While the Declaration opened the door to much progress in human life, the current human rights situation in a lot of countries, including the Philippines, leaves no room for complacency. At every moment, a case of human rights violation is recorded in every part of the world, and human rights advocates should not let up on their vigilance in reminding everyone that human rights should always be respected and upheld.

As the world observes the year-long celebration of the UDHR, the Philippine Alliance of Human Rights Advocates (PAHRA) will commemorate the 60<sup>th</sup> year of the Declaration here in the Philippines with a series of information/advocacy activities promoting the principles and rights enshrined in the said Declaration.

Together with the promotion of the Declaration, PAHRA will bring to the public eye the human rights violations being perpetrated by the Arroyo government. These information and advocacy activities will involve school/university fora, community/ barangay and church discussions, photo exhibits, film showings, and poster making, essay writing and poetry contests that will highlight the various articles of the Declaration that the Arroyo administration has failed to uphold. ■

— Jonal Javier, PAHRA



## POVERTY WORSENS UNDER ARROYO

THE ARROYO administration's strident trumpeting of its economic "successes" got a resounding boo in March this year, when the National Statistical Coordination Board (NSCB) released its latest Family Income and Expenditure Survey.

The survey revealed that poverty incidence in the country increased to 26.9 percent in 2006, from 24.4 percent in 2003. Still, the 2006 poverty figure is lower than the 27.5 percent poverty rate in 2000, just a year before Arroyo came into power through EDSA II.

A total of 4.7 million families (or some 27.6 million Filipinos) were considered poor in 2006, up by 16 percent from the 4 million families (or 23.8 million Filipinos) considered poor in 2003.

The survey defined "poor" as "those who cannot afford in a sustained manner to provide their basic needs of food, health, education, housing and other amenities of life."

It must be noted that the 2006 poverty estimates were released in early March 2008, a few weeks before the rice crisis hit the Filipinos and the rounds of fuel and cooking gas price increases. Because of this, it is expected that the number of poor families would be much higher than officially reported.

The NSCB estimated that the poverty threshold (or the minimum income required by a family of five to meet basic food and non-food requirements) had risen to P6,274/month in 2006. The poverty threshold was placed at P5,129/month in 2003, and P4,774/month in 2000.

The government agency also reported that in 2006, the number of food-poor persons (or those who cannot afford to buy food) increased by 14 percent to 12.2 million, compared to 2003 levels. ■

## OFFICIAL POVERTY FIGURES ARE 'GROSSLY UNDERSTATED'

THE independent think-tank IBON, however, believes that the government's poverty figures "may actually be understated and obscure how widespread poverty is." IBON faulted NSCB's methodology, pointing out that the government agency uses low poverty threshold in estimating the extent of poverty.

The problem, IBON says, lies in the government's minimum basic needs (MBN) approach in poverty estimation. As the think-tank points out, by considering only minimum survival standards to measure poverty, "only those who are desperately poor and cannot meet even their most basic needs" are counted. As IBON argues, individuals and families "who fail to meet decent living standards" should also be counted among the poor.

In saying that the actual extent of poverty is "grossly understated," IBON presented its January 2008 nationwide survey. The study shows that seven out of 10 (71.7 percent) Filipinos rate themselves as poor. By April 2008, IBON's self-rated poverty survey revealed that eight out of 10 (or 79.3 percent) of Filipinos see themselves as poor. This is markedly higher than the official version that estimates one out of three Filipinos as poor. ■

(See **Facts and Figures** for results of NSCB's poverty study.)

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Photos: PEPITO FRIAS/PhilRights Photobank

## WITH NO RELIEF IN SIGHT

AS OF May 2008, the NSCB estimates that a family of five living in the National Capital Region needs to earn more than P10,000 a month. According to the agency, this income threshold covers only basic needs like food, clothing, shelter and transportation.

This newly revised figure could explain why more Filipinos have fallen down the poverty hole.

The NSCB said that this figure already takes into account the latest increases in prices of fuel and other basic commodities. NSCB director general Romulo Virola told the Inquirer that consumer prices "have increased by double-digit levels from 2006 to 2008," pointing out that "the cost of rice alone already rose by 50 percent." ■

# HR TRIVIA:

## THE RIGHT WORDS

WE HAVE to push for a rights-based development, [...] which allows the poor a clear political voice in the decision-making of their nation, because it is only through having that political will in place will resources be redirected to the poor in the fight to overcome poverty.

– Mark Malloch Brown, Administrator, United Nations Development Programme

## THE RIGHT DAY

### TUBERCULOSIS DAY, MARCH 24

EVERY YEAR, on March 24, the world marks Tuberculosis Day, to remind people and governments that despite advances in medicine, TB remains a public health problem on a massive scale. Worldwide, this infectious airborne disease claims about 2 million lives each year. Annually, 9 million new TB cases are recorded, most of them in the poorest countries in Africa and Asia.

TB is primarily a disease of poverty, with most of the cases occurring in rural areas and congested slums, where poverty is rife, social services are lacking – if not altogether absent – and proper nutrition is beyond reach. It is not for reasons of euphemism that TB is called an opportunistic disease. Like other opportunistic diseases, TB thrives in communities where nutrition is poor, healthcare is a mirage, and human immunity is enfeebled.

In 1968, TB ranked as the second leading cause of mortality in the Philippines. Today, TB still ranks among the top ten killers in the country. It is the sixth leading cause of morbidity and mortality, and about half of the population is believed to be infected. Every day, approximately 78 Filipinos die from the disease. TB continues to spread throughout the country, with some 250,000 new cases recorded annually.

According to latest World Health Organization (WHO) figures, the Philippines is ranked eighth among the 22 high-burden countries that host 80 percent of the world's TB



**Breeding ground: Congestion and poor sanitation contribute to the proliferation of TB.** PhilRights Photobank

cases. In the Western Pacific region, the Philippines ranks second in TB incidence. It has the highest incidence among the Southeast Asian countries. Along with India and Indonesia, the Philippines remains a hotspot for the spread of TB.

And yet TB is preventable and easily curable. The cure for TB was discovered as early as 1952 and has been available in the country since the 1970s. ■

Sources:  
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### LABADA REPUBLIC



## FACTS AND FIGURES



PEPITO FRIAS/PhilRights Photobank

### JUST HOW POOR ARE WE?

Incidence and magnitude of poverty, Philippines: 2000, 2003 and 2006

Statistics	Point Estimates			Inc/Dec 2003 to 2006
	2000	2003	2006	
Annual Per Capita Poverty Threshold (PhP)	11,458	12,309	15,057	2,748
Poverty Incidence (%)				
Families	27.5	24.4	26.9	2.5
Population	33.0	30.0	32.9	2.9
Magnitude of Poor (in million)				
Families	4.2	4.0	4.7	0.7
Population	25.5	23.8	27.6	3.8
Subsistence Incidence (%)				
Families	12.3	10.2	11.0	0.8
Population	15.8	13.5	14.6	1.1
Magnitude of subsistence poor (in million)				
Families	1.9	1.7	1.9	0.2
Population	12.2	10.8	12.2	1.4

### ANNUAL AND MONTHLY POVERTY AND FOOD THRESHOLD FOR A FAMILY OF FIVE: 2000, 2003 AND 2006

		Annual			Monthly		
		2000	2003	2006	2000	2003	2006
Phil.	Poverty Threshold	57,290	61,545	75,285	4,774	5,129	6,274
	Food Threshold	38,535	40,745	50,125	3,211	3,395	4,177
NCR	Poverty Threshold	78,610	83,685	102,830	6,551	6,974	8,569
	Food Threshold	47,850	49,870	59,035	3,987	4,156	4,920

### MONTHLY AND DAILY POVERTY AND FOOD THRESHOLDS FOR A FAMILY OF FIVE, ALL AREAS: 2005 – 2007

		Monthly			Daily		
		2007	2006	2005	2007	2006	2005
Phil.	Poverty threshold	6,195	6,003	5,916	204	198	195
	Food threshold	4,162	4,024	3,896	137	133	129
NCR	Poverty threshold	8,061	7,945	7,859	266	262	259
	Food threshold	4,804	4,735	4,667	159	156	154



JAY AZUCENA/PhilRights Photobank

**ANNUAL PER CAPITA POVERTY THRESHOLDS FOR URBAN AND RURAL AREAS: 2005 – 2007**

All Areas	Urban Areas	Rural Areas	Urban - Rural Difference Level	%
14,196	15,992	13,241	2,751	20.1
14,405	16,429	13,659	2,770	20.3
14,866	16,936	14,103	2,833	20.1

**POVERTY INCIDENCES AMONG FAMILIES OF THE TEN POOREST PROVINCES IN 2006**

Province	2000		2003		2006		Inc/Dec 2003 to 2006
	Poverty Incidence	Rank	Poverty Incidence	Rank	Poverty Incidence	Rank	
Tawi-tawi	52.4	8	34.6	31	78.9	1	44.2
Zamboanga del Norte	47.0	17	64.6	1	63.0	2	(1.5)
Maguindanao	59.3	2	60.4	2	62.0	3	1.6
Apayao	26.5	59	16.8	69	57.5	4	40.7
Surigao Del Norte	42.6	23	54.5	4	53.2	5	(1.3)
Lanao del Sur	54.7	5	37.6	25	52.5	6	14.9
Northern Samar	39.8	31	33.8	38	52.2	7	18.3
Masbate	61.3	1	55.9	3	51.0	8	(4.9)
Abra	47.6	16	41.0	19	50.1	9	9.1
Misamis Occidental	46.8	18	48.1	7	48.8	10	0.7

**POVERTY INCIDENCES AMONG FAMILIES OF THE TEN LEAST POOR PROVINCES IN 2006**

Province	2000		2003		2006		Inc/Dec 2003 to 2006
	Poverty Incidence	Rank	Poverty Incidence	Rank	Poverty Incidence	Rank	
Batanes	10.4	6	6.3	2	0.0	1	(6.3)
Rizal	5.6	2	3.4	1	6.4	2	3.0
Bataan	9.9	4	10.2	7	6.8	3	(3.4)
Cavite	10.2	5	8.6	5	7.8	4	(0.8)
Benguet	13.9	7	11.0	9	8.2	5	(2.7)
Pampanga	14.4	8	10.5	8	8.3	6	(2.1)
Bulacan	5.4	1	8.5	4	10.0	7	1.5
Laguna	8.1	3	8.4	3	10.6	8	2.2
Nueva Vizcaya	16.5	9	9.2	6	12.7	9	3.6
Quirino	31.4	31	24.1	20	15.9	10	(8.2)

**ANNUAL PER CAPITA POVERTY THRESHOLDS, POVERTY INCIDENCE AND MAGNITUDE OF POOR FAMILIES: 2006**

Region/Province	Annual Per Capita Poverty Threshold (in Pesos)	Poverty Incidence Among Families (%)	Magnitude of Poor Families
<b>PHILIPPINES</b>	<b>15,057</b>	<b>26.9</b>	<b>4,677,305</b>
<b>NCR</b>	<b>20,566</b>	<b>7.1</b>	<b>167,316</b>
1st District	20,868	7.4	27,468
2nd District	20,085	6.3	52,673
3rd District	20,908	9.8	51,847
4th District	20,582	5.6	35,327
<b>REGION I</b>	<b>15,956</b>	<b>26.2</b>	<b>248,443</b>
Ilocos Norte	16,024	17.1	20,362
Ilocos Sur	16,922	27.2	35,779
La Union	16,372	27.6	40,641
Pangasinan	15,656	27.6	151,660
<b>REGION II</b>	<b>13,791</b>	<b>20.5</b>	<b>126,726</b>
Batanes	14,970	-	-
Cagayan	12,928	19.3	41,175
Isabela	14,124	24.4	69,434
Nueva Vizcaya	14,325	12.7	10,704
Quirino	14,665	15.9	5,414
<b>REGION III</b>	<b>17,298</b>	<b>16.8</b>	<b>320,109</b>
Aurora	16,275	31.6	12,826
Bataan	15,538	6.8	8,679
Bulacan	17,768	10.0	56,008
Nueva Ecija	17,830	32.0	121,010
Pampanga	17,243	8.3	34,405
Tarlac	16,463	22.1	53,338
Zambales	16,685	22.6	33,841
<b>REGION IV-A</b>	<b>17,761</b>	<b>16.7</b>	<b>374,952</b>
Batangas	19,616	25.6	108,782
Cavite	18,718	7.8	42,077
Laguna	17,724	10.6	50,689
Quezon	16,125	38.4	146,188
Rizal	17,464	6.4	27,217
<b>REGION IV-B</b>	<b>14,800</b>	<b>43.7</b>	<b>238,489</b>
Marinduque	14,041	40.8	20,587
Occidental Mindoro	14,219	46.5	42,660
Oriental Mindoro	16,723	47.1	74,307
Palawan	13,850	40.8	74,770
Romblon	13,832	41.9	26,165
<b>REGION V</b>	<b>15,015</b>	<b>41.8</b>	<b>422,278</b>
Albay	16,128	37.8	88,676
Camarines Norte	14,854	38.4	39,421
Camarines Sur	14,634	41.2	134,599
Catanduanes	13,654	37.3	16,999
Masbate	14,248	51.0	80,512
Sorsogon	15,687	43.5	62,071
<b>REGION VI</b>	<b>14,405</b>	<b>31.1</b>	<b>425,571</b>
Aklan	15,150	42.6	42,271
Antique	14,650	43.0	46,005
Capiz	14,242	24.3	34,986
Guimaras	14,811	35.2	11,097
Iloilo	14,810	24.1	100,759
Negros Occidental	13,975	33.4	190,455

# F A C T S A N D F I G U R E S

Region/ Province	Annual Per Capita Poverty Threshold (in Pesos)	Poverty Incidence Among Families (%)	Magnitude of Poor Families
<b>REGION VII</b>	<b>13,390</b>	<b>30.3</b>	<b>391,484</b>
Bohol	13,610	38.8	92,354
Cebu	13,960	23.5	184,207
Negros Oriental	12,159	43.7	110,724
Siquijor	12,733	22.3	4,199
<b>REGION VIII</b>	<b>13,974</b>	<b>40.7</b>	<b>331,426</b>
Biliran	12,028	31.4	10,077
Eastern Samar	13,873	42.7	35,403
Leyte	13,919	40.5	147,900
Northern Samar	14,275	52.2	56,901
Southern Leyte	13,998	29.0	23,634
Western Samar	13,869	40.2	57,510
<b>REGION IX</b>	<b>13,219</b>	<b>40.2</b>	<b>250,696</b>
Zamboanga del Norte	13,947	63.0	115,560
Zamboanga del Sur	12,741	29.0	91,614
Zamboanga Sibugay	12,188	34.0	36,868
Isabela City	14,115	43.0	6,655
<b>REGION X</b>	<b>14,199</b>	<b>36.1</b>	<b>285,054</b>
Bukidnon	12,186	29.6	68,973
Camiguin	16,145	39.3	6,619
Lanao del Norte	15,225	44.1	72,484
Misamis Occidental	14,555	48.8	54,247
Misamis Oriental	14,787	31.5	82,730

<b>REGION XI</b>	<b>14,942</b>	<b>30.6</b>	<b>257,554</b>
Davao del Norte	15,753	37.7	62,669
Davao del Sur	14,452	23.0	101,644
Davao Oriental	13,741	40.8	39,088
Compostela Valley	15,822	39.8	54,153
<b>REGION XII</b>	<b>14,225</b>	<b>33.8</b>	<b>253,009</b>
North Cotabato	13,315	27.7	59,940
Saranggani	13,746	44.8	43,750
South Cotabato	15,431	30.7	82,129
Sultan Kudarat	13,036	40.7	53,776
Cotabato City	17,335	38.0	13,414
<b>CAR</b>	<b>16,810</b>	<b>28.8</b>	<b>87,050</b>
Abra	17,900	50.1	22,484
Apayao	17,837	57.5	12,128
Benguet	17,483	8.2	10,990
Ifugao	15,556	30.9	11,082
Kalinga	15,031	45.8	16,113
Mt. Province	16,785	45.0	14,254
<b>ARMM</b>	<b>15,533</b>	<b>55.3</b>	<b>295,220</b>
Basilan	13,255	31.7	17,477
Lanao del Sur	16,567	52.5	70,544
Maguindanao	15,556	62.0	107,074
Sulu	15,651	46.5	50,701
Tawi-tawi	14,765	78.9	49,423
<b>Caraga</b>	<b>15,249</b>	<b>45.5</b>	<b>201,929</b>
Agusan del Norte	13,986	35.2	40,668
Agusan del Sur	14,544	48.7	58,161
Surigao Del Norte	16,961	53.2	55,510
Surigao Del Sur	15,264	45.4	47,591



## ANNOUNCEMENT

SINCE APRIL 2004, the Philippine Human Rights Information Center (PhilRights) has been accepting interns from local and international institutions and universities. This Internship Program is open to college students, researchers or professionals who want to expand their experience in human rights work. Interns are assigned to one of PhilRights' four institutional programs: information, research, training, and monitoring/documentation.

For details, contact Pepito D. Frias, PhilRights Training Associate, at 433-1714 or 426-4048. e-mail: [philrights@philrights.org](mailto:philrights@philrights.org). Visit [www.philrights.org](http://www.philrights.org)

PHILIPPINE HUMAN RIGHTS  
INFORMATION CENTER (PHILRIGHTS)  
53-B Maliksi St. Barangay Pinyahan  
1100 Quezon City

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