

UNIVERSAL PERIODIC REVIEW 2011: The PHILIPPINES

A. METHODOLOGY

The preparation of this report is based on the work of ESCR-Asia, Inc. in the field of economic, social and cultural rights from 2008 – 2011, with and on behalf of its partners in the basic sectors, particularly the small street vendors, the small transport workers, the small and artisanal fisherfolk, home-based workers, and others. It has undertaken research, advocacy, training and education activities especially since 2007 under its flagship program, the Legal Empowerment of the Poor (LEP), phases 1-4. ESCR-Asia has just finished research on one Guide each for the Rights of three basic sector groups: small transport workers, street vendors, and small fisherfolk, as part of the LEP phase 4.

In 2008, ESCR-Asia undertook and submitted an alternate report to the UN CESCR on the Philippine government's implementation of its commitments and obligations in its periodic report on the ICESCR. Just slightly ahead of preparing the ICESCR alternate report, ESCR-Asia undertook an extensive research to enliven and ground the nineteen (19) Voluntary Guidelines on Realizing Progressively the Right to Adequate Food, formulated by the Food and Agriculture Organization (FAO). Insights and cases arising from and within the various activities undertaken since 2008 have helped in the content of this report.

In the follow-up to the second UPR on the Philippines, ESCR-Asia also actively participated in UPR-related activities such as the Commission on Human Rights of the Philippines (CHRP)-Civil Society Forum on the UPR held on July 23, 2011, and the Philippine Alliance of Human Rights Advocates (PAHRA)-initiated workshop and writeshop on Philippine stakeholders' reports on Sept 12, and Nov. 14, 2011 respectively.

B. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND: Implementation of the International Human Rights Obligations

Based on the List of Recommendations from the first Universal Periodic Review (UPR) done in April 2008, the following is our report:

Recommendation # 2: "To ensure that members of the security forces are trained on human rights and on their responsibility to protect human rights and human rights defenders (CANADA)."

1. While human rights offices in both the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) were established five years ago in 2006, we note that much remains to be done. During their reports (together with that of the Department of Education (DepEd) and the Commission on Higher Education (CHED) presented last July 2011 at the 2nd National Human Rights Educators Congress, a study commissioned by the Commission on Human rights of the Philippines noted that human rights education and training are done to comply with requirements. However, much of the education/training undertaken have been cognitive, usually lecture-style.

2. For the PNP – Human Rights Affairs Office (HRAO), its leadership has recognized the fact that a more wholistic way of doing human rights education is needed – one that involves greater participation, hence, the need for case studies, role playing and similar “hands-on” type of learning. ESCR-Asia was invited early this year (2011) to jointly explore and currently in dialogue with the PNP-HRAO on building and undertaking just such a creative way of human rights education. Hopefully, this will help deepen the understanding as well as allow for really imbibing a human rights way of life among its officers and people on the ground.

3. Aside from the above, with ESCR-Asia facilitating, the Philippine National Police through its Human Rights Affairs Office (HRAO), had a wide-ranging dialogue with leaders of three

subsectors of the Informal Sector: fisherfolks from the Laguna Lake, street vendors inside Intramuros, and home-based workers just last Nov. 18, 2011. In November 2010, during the pilot test of a toolkit for three subsectors (small transport workers, street vendors and small fisherfolks) in Camotes Island, Cebu province, these and other basic sector leaders had a very fruitful three-day activity including several dialogues with officials from the National Economic Development Authority (NEDA), the PNP-Maritime, Armed Forces of the Philippines (AFP)-Navy, and the Supreme Court-PMO. In both mentioned activities, the basic sector leaders were able to articulate the responsibilities of the state actors viz. their human rights.

4. ESCR-Asia, as Secretariat of the Asian Consortium for Human Rights-Based Approach to Access to Justice (HRBA2J-Asia) also invited the PNP-HRAO to participate in the three-day capacity-building on Human Rights-based Approach to Equal Access to Justice last April 4-6, 2011 held in Manila attended by almost 20 Asian participants. The three modules of the Manual included (Module 1) Equal Access to Justice: Situational Context and Framework, (Module 2) Human Rights-based Equal Access to Justice and (Module 3) Developing Human Rights-based Equal Access to Justice Interventions.

Our Recommendations:

- * To pursue a mentoring curriculum on human rights for and with the Philippine National Police.
- * To integrate human rights principles and norms into police programs and policies.
- * To develop templates for rights-based inspired police work.

Recommendation # 10: "To share with other countries, especially developing countries, its experience in the area of justiciability of economic and social rights (SUDAN)."

Cases brought for litigation:

- Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay (December 18, 2008)¹ – the cleaning of Manila Bay is a ministerial act which may be compelled by mandamus. This addresses the issue of the quality of water as it affects the people living around Manila Bay.
- Pacific Steam Laundry v. Laguna Lake Development Authority (December 18, 2008) – complaint of black smoke emission from the Pacific Steam Laundry Inc plant.
- Baguio City v. Masweng (Feb. 4, 2009) – invoking R.A. 8371 – Indigenous Peoples Rights Act of 1997 – rights of indigenous cultural communities/indigenous peoples – re: illegal structures on portion of Busol Watershed Reservation at Aurora Hill, Baguio City.

Our Recommendations:

Recommendation # 12: "While noting the involvement of civil society in the preparatory process of the national report, to fully involve civil society in the follow-up to the review (United Kingdom)."

5. For ESCR-Asia, although we have been in existence since 2003 and our basic mandate is in the field of economic, social and cultural rights; based in the National Capital Region though we have grassroots partners in Luzon, Visayas and Mindanao. We only became involved this year, 2011, first through the Commission on Human Rights of the Philippines (CHRP), and then through the NGO/CSO network. While we were informed by the Presidential Human Rights Committee, we have not been involved in any government initiative in the follow-up to this second UPR.

Our Recommendations:

- To create a task force or set appropriate and regular mechanisms and processes to involve not just civil society organizations with the NHRI but also key government agencies in the follow-up of the review e.g Department of Justice (DOJ), Department of National Defence (DND), Department of Education (DepEd), Department of Social Welfare and Development (DSWD), Department of Health (DOH),etc.

Recommendation # 14: "To step up efforts to continue to meet the basic needs of the poor and other vulnerable groups (NIGERIA).

6. The MAPAGPALA fisherfolk, a fisherfolk basic sector partner of ESCR-Asia, together with other fisherfolk coalitions, successfully lobbied the stop to the dredging project of Laguna Lake as this would be detrimental to the life and rights of the people who live around the lake. In 2009, then Philippine President and now Pampanga Representative Gloria M. Arroyo signed Executive Order 815 for the rehabilitation of Laguna Lake, the largest lake in the Philippines and the second largest freshwater lake in Southeast Asia.

7. The project would have involved the dredging of the Laguna Lake navigational lane and the entire stretch, some eight kilometers of the Napindan Channel as well the development of transport systems and lakeshore areas for ports and marinas that would connect the provinces of Rizal and Laguna and the cities and municipalities of the National Capital Region.

8. However, as MAPAGPALA leaders told ESCR-Asia, while the idea of dredging the lake to remove the silt that had caused past floods was a welcome move, what in effect would happen was that the fishing communities and urban poor villages – several thousands of fisherfolks - that surround the lake would have been adversely affected – uprooted from their communities, removed from the source of the daily subsistence, in substance, the rights to accessible sources of livelihood, housing, food, employment would be violated.

9. It would mean that the 18 billion peso project would privatize the lake, allowing for the entry of big business planning including an international airport and hotels along the lake, all part of a grand plan to make the Laguna Lake a major industrial and commercial hub in Southern Tagalog. This would also adversely affect an already deteriorating environment in and around the lake.

10. So successful was the lobby put up by the fisherfolk groups that on December 5, 2010, E.O. 815 was voided by current Philippine President Benigno Simeon C. Aquino III, incurring a backlash from the Belgian firm originally tapped to do the project. Opposition was not limited to the fisherfolk groups; even the Rizal governor, "Jun" Ynares registered his opposition. It turns out that the issuance of the ECC itself was "highly irregular" as there was no consultation done with the leaders, people and communities that would have been affected by the project.

12. Currently, ESCR-Asia, in partnership with informal sector groups like Samahan ng mga Nagkakaisang Manininda ng Intramuros (Street Vendor Association in Intramuros), Coalition of Fisherfolks for the Development of Laguna Lake (MAPAGPALA), Malabon People's Development Association (MPDA) are conducting baseline surveys to get the needs of the children of informal sector groups in relation to access to primary, tertiary and collegiate educational needs. A meeting with UNICEF, the Department of Education and the Commission on Human Rights is being planned for a multistakeholder approach.

Our Recommendations:

1. Aside from the cash transfer program of the current administration, other programs be developed to provide access to basic services to the vulnerable groups e.g. water facilities, education, equipment-fishing boats for artisanal fisherfolks.

11. Apart from the above, ESCR-Asia also wishes to report:

- a. The Philippine Legislature especially its more social justice/human rights-of members are open to deepening the scope of human rights especially among its marginalized sectors. Together with SALIGAN, a non-government legal group, and on behalf of like KATINIG, MAPAGPALA, SANAMAI,CECUVA, MACWIE and other informal sector partners ESCR-Asia submitted a proposed Magna Carta on the Rights of Members of the Informal Sector in 2009 to both the House of Representatives and the Senate of the 15th Philippine Congress.

Our Recommendations:

- The immediate passage of the filed bill entitled “Magna Carta of Members of the Informal Sector” which affects almost 15 million members of the Philippine informal economy. If passed as law, it will provide entitlements, security in the workplace, social protection and will fully harness the potentials of these actors and greatly contribute to the Philippine economy.

C. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

Achievements

12. ESCR-Asia welcomes the Philippine government’s ratification of the following international human rights treaties since 2008: the Convention on the Rights of Persons with Disabilities (April 2008), and the Rome Statute of the International criminal Court (ratified 30 August 2011). The first has a range of economic and social rights that have to be addressed by the Philippine State.

Best practices

13. One good practice is the implementation and institutionalization of human rights offices in the security forces- Philippine National Police and the Armed Forces of the Philippines. To date, there are around one thousand plus human rights desks at the provincial levels while at the Armed Forces of the Philippines, its three service commands – Navy, Army and Air Force have now human rights desks.

Challenges

14. Despite signing almost all the core human rights treaties, in particular the ICESCR, the Philippines has balked, if we may say so, in signing the Optional Protocol to the ICESCR. ESCR-Asia and other NGOs sat in an inter-agency meeting facilitated by the National Economic Development Authority (NEDA) in 2009, upon NEDA’s invitation to share the salient features of the said Optional Protocol. Instead, what we realized was that the different agencies, except perhaps, NEDA and the DFA were not familiar with the articles of the covenant on ESCR itself and hence, were wary of the Optional Protocol. Specifically, agencies pointed out the justiciability of ESCRs. Since then, there has been no follow-through meeting with CSOs.

Constraints

15. A climate of impunity exists on the Philippine landscape, the most famous case of which is the the Maguindanao Massacre in 2009 that has attracted worldwide attention.

16. In 2008, the Philippines underwent a severe food crisis. A primary obligation of the state is to enact domestic legislation to realize the right to adequate food. While the Philippines is a signatory to the International Covenant on Economic, Social and Cultural Rights wherein the right to food is found (Article 11: the right to adequate standards of living) there is as yet no Food Security and/or Food Sovereignty Law.

17. Despite repeated recommendations in diverse forums among NGOs/CSOs, there has been no review yet of conflicting laws. A frequently-mentioned example is the conflict between provisions of Mining Act and the Indigenous Peoples Rights Act. Mining and mining-related activities are looked at now from both the human rights as well as the environmental rights perspectives..

Our Recommendations:

- Signing and Ratification of the Optional Protocol to the ICESCR
- Enactment of a Food Security Bill
- Review of the Philippine Mining Act and the Indigenous Peoples' Rights Act
- Review of the other similar laws that have conflicting provisions with the other laws
- Inclusion/representation of the civil society in the Anti-hunger task force headed by the National Nutrition Council (NNC), an attached agency under the Department of Health

D. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS OF THE STATE

18. The revival/strengthening of the Presidential Human Rights Committee (PHRC) with the civil society component (CSO) having regular and full membership status, and not just assuming observer status. (Note: during the administration of the late President Corazon C. Aquino, select CSO representatives enjoy regular membership status. It was during the administration of the former Gloria Macapagal Arroyo that the latter was relegated to observer status.)

19. A stronger Commission on Human Rights of the Philippines (CHRP) with an expanded mandate to cover monitoring, investigation, education and capacity-building on economic, social and cultural rights. CHRP was under the watch of then Chair, and now Secretary of Justice, Leila De Lima, and the current Chair, Loretta Ann Rosales, herself a human rights activist and champion.

20. In order to address the poverty situation in the country, the Department of Social Welfare and Development (DSWD) launched its Conditional Cash Transfer (CCT) program in 2010, shortly after The Hon. Benigno Aquino III assumed the Philippine basis, such as the criteria for choosing recipients for the cash-out, and the overall implementation.

Our Recommendations:

- Strengthening of the Presidential Human Rights Committee (PHRC) with NGOs/CSOs as members of the Committee and not only observers.
- Continued strengthening of the CHRP covering economic, social and cultural rights and also including mandatory human rights training and education of all its personnel on both national, regional, and where applicable, provincial levels.
- A combined academe-CSO-government team to review and critique the CCT program, as well as the PPP program, among other poverty alleviation measures undertaken from the time of the past administrations to the current one. Also to be included can be the MTPDP in relation to the Philippine commitments to the universal MDGs.
- The immediate passage of the Magna Carta of Members of the Informal Sector

ⁱ Sample cases are taken from Philippine Judicial academy, ACCESS TO ENVIRONMENTAL JUSTICE: A Sourcebook on Environmental Rights and Legal Remedies (2011), 226ff.