

Violations of ESCR in the Philippines 2008-2011

This submission is made by the Bagong Alyansang Makabayan (New Patriotic Alliance, BAYAN) a multi-sectoral alliance composed of Kilusang Mayo Uno (May First Movement), Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines), Anakbayan (Youth), League of Filipino Students, Kadamay (urban poor), Courage (government employees), Health Alliance for Democracy and Alliance of Concerned Teachers and other mass formations. BAYAN held a National Council meeting in February 2011 and a National Executive Committee meeting in June 2011 to gather data and consult its member organizations. It has previously made submissions for the UPR in 2007 together with IBON Foundation and has participated/observed the CESCR session on the Philippines in 2008. The period covered by the upcoming review consists of the tail-end of the Arroyo regime (2008-June 2010) and the start of the Aquino regime (July2010-Nov2011).

This submission focuses on the Philippine Government's compliance with the Convention on Economic Social and Cultural Rights after the previous UPR, as well pledges made by the Philippine Government in its candidature to the HRC¹. These include:

1. Continuing to enhance domestic implementation of all human rights treaty obligations and programs, especially with regard to the eradication of poverty and fulfillment of the UN MDG
2. Continuing to be sensitive to current and emerging challenges which have an impact on human rights, such as climate change and globalization".

It bears stressing that many of the economic policies of past Arroyo regime covered in the previous UPR were merely continued by the Aquino government.

Right to self-determination

The most significant violation of the country's right to self-determination in the past four years was the ratification by the Senate of the Japan-Philippines Economic Partnership Agreement (JPEPA) in October 2008. JPEPA gave Japanese investors "national treatment" while prohibiting performance requirements including technology transfer, local content requirements, and preference for Filipino labor, among others. Another contentious provision of the deal relates to "future non-conforming measures" which undermines the power of Congress to restrict foreign investments in certain economic activities when the national interest dictates. Meanwhile, attempts to amend the 1987 Constitution to fully liberalize the domestic investment regime and thus end legal challenges to deals like the JPEPA persist. The country's right to self-determination is in grave danger of further being weakened if constitutional restrictions on foreign ownership of land, public utilities, mass media, educational institutions, and exploitation of natural resources, among others are lifted as pushed by proponents of constitutional reforms. Furthermore, the right to self-determination of local communities is also being violated or put at risk by the aggressive lobbying of foreign mining firms against mining bans issued by some local

¹ Note verbale dated 11 February 2011 from the Permanent Mission of the Philippines to the United Nations addressed to the President of the General Assembly

government units.² These bans have been in response to the clamor of indigenous and peasant communities who suffer from the environmental, cultural, and socio-economic impact of large-scale, foreign-led, and export-oriented mining activities in their areas. Mining operations have gone up from 28 in 2010 to 31 in 2011, with 1.12 million hectares covered by 763 mining agreements (up from 545 in 2008).³

Right to work

The bias of government policies towards foreign capital and markets has been taking its toll on Filipino workers, in particular since the 2008 global economic crisis. Data from the National Statistics Office (NSO) show that from 2008 to 2011, an average of 2.8 million jobless workers yearly while an additional 6.8 million are underemployed. More than 26% of Filipino workers are either jobless or underemployed annually during the period. Almost 52,000 a year lost their jobs in the past four years, while about 171,000 become underemployed. The jobs situation is in fact much worse because NSO data tend to understate unemployment. In its own survey, non-profit research group Social Weather Stations (SWS) reported that 11.3 million workers were jobless in the first quarter of 2011. That's about four times the official unemployment data during the same period. Because of lack of jobs, an increasing number of Filipino workers are forced to leave the country to find employment elsewhere. Based on Philippine Overseas Employment Administration (POEA) data, almost 116,000 workers leave the Philippines every month from January 2008 up to September 2011. The Commission on Filipinos Overseas (CFO) pegged the stock estimate of overseas Filipinos at almost 8.6 million as of 2009.

Right to just and favorable work conditions

Minimum wage rates have remained way below officially considered decent standard of living. The last wage adjustment (May 2011) brought the daily minimum wage in Metro Manila to ₱426 (less than US\$10), which includes the cost of living allowance. Compare this to the family living wage⁴, which the National Wages and Productivity Commission (NWPC) last updated in September 2008, of ₱917 (more than US\$21). Thus, a family with two minimum wage earners today will still not earn enough to meet the living wage of more than three years ago. Legislation for a P125 wage increase is pending before both houses of Congress but the Executive has opposed any legislated across-the-board wage hike,

² The Philippines Australia Business Council, Australian-New Zealand Chamber of Commerce, Philippine Chamber of Commerce and Industry (PCCI), and the Chamber of Mines of the Philippines have been asking the Aquino administration to make a clear policy on how it plans to intensify the mining industry's growth as one of the priority industries identified in the Philippine Development Plan (PDP) 2011-2016. Specifically, they want the national government to end the provincial bans on mining that they claim "defy" national law and "damage" international confidence in the country's mineral investment policies. (Philippine Daily Inquirer, Nov. 7, 2011, 'Decisive' action on mining conflict urged)

³ Kalikasan Peoples Network for the Environment citing data from the Mines and Geosciences Bureau of the Department of Environment and Natural Resources.

⁴ Living wage is officially defined as "the amount of family income needed to provide for the family's food and non-food expenditures with sufficient allowance for savings/investments for social security so as to enable the family to live and maintain a decent standard of human existence beyond mere subsistence level, taking into account all of the family's physiological, social, and other needs." (NWPC 2001, Development of Methodology for Estimating the Living Wage)

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preferring instead regional increases which peg wage levels differently. Job security, meanwhile, remains increasingly precarious with the government almost always siding with the big investors. The ongoing labor row at the Philippine Airlines (PAL) illustrates the continuing violation of workers' right to just and favorable work conditions.⁵

The Aquino government continues to uphold Department of Labor Order 57-04 which allows self-assessment by employers in relation to occupational health and safety (OHS) and effectively relaxes OHS standards. During the first half of 2011, the Center for Trade Union and Human Rights recorded 17 accidents in 11 companies in the country. Thirty-four (34) have died and 78 were injured since January 2011.

Right to unionize

Data from the Bureau of Labor and Employment Statistics (BLES) show that there are more than 18,000 registered unions in the country, including federations/labor centers and unions in the public and private sectors, as of March 2011. The number is bigger than the number of registered unions as of 2009, pegged at 17,665. But due to continued contractualization and other forms of labor flexibilization schemes being promoted by the government (such as the case in PAL) union membership actually declined from 1.99 million in 2009 to 1.76 million today. The number of unionized workers is just 8% of the total wage and salary workers in the country, pegged at 20.89 million as of July 2011.

Right to adequate standard of living, right to food

Ironically, the poorest regions have the highest cost of living and the lowest wages and income. The Autonomous Region of Muslim Mindanao (ARMM), for instance, has an estimated living wage of ₱1,322 (about US\$31), as of September 2008 based on NWPC data, but the current daily minimum wage in the region is a measly ₱232. The people's right to adequate standard of living is also being undermined by the unabated increases in the prices of basic goods and services due to the continued implementation of deregulation and privatization programs. Between 2008 and 2011, the price of subsidized rice has jumped by 48%; electricity, 70%; water, 29-36%; and petroleum, 12-23%. The Aquino administration has also approved this year a fare hike of as much as 100% in the country's mass rail transit system and rate hikes of as much as 300% in major toll roads.⁶ During the same period, the average daily basic pay of wage and salary workers only improved by less than 10%, with the minimum wage increasing by only 7 percent.⁷ Consequently, poverty increased during the same period. Despite a very low poverty threshold

⁵ The PAL management recently retrenched around 2,400 regular employees to be replaced by contractual workers. As a cost-saving scheme, PAL reportedly intended to rehire the retrenched workers through outsourcing firms, at entry-level salaries and minus the regular benefits. The national government has supported the so-called prerogative of PAL management.

⁶ Data from the National Food Authority (rice); Manila Electric Co. (electricity, specifically distribution charge); Metropolitan Waterworks and Sewerage System – Regulatory Office (water rates, specifically of Manila Water Co. and Maynilad Water Services Inc.); Department of Energy (petroleum, specifically diesel and unleaded gasoline); Light Rail Transit Authority (mass rail transit fares); and Toll Regulatory Board (toll rates).

⁷ Data from the Bureau of Labor and Employment Statistics (comparing 2009 average and April 2011 average) and National Wages and Productivity Commission (minimum wage, specifically in NCR between June 2008 and May 2011).

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of about US\$1.1 a day, the National Statistical Coordination Board (NSCB) reported that the number of poor Filipinos increased by almost 970,000 between 2006 and 2009. On the other hand, the latest surveys of the SWS indicate that there are 9.8 million Filipino households, or 49%, who consider themselves poor (as of 2nd quarter 2011) while 4.3 million households, or almost 22%, experience hunger (as of 3rd quarter). The sheer magnitude of poverty easily dwarfs the only anti-poverty program implemented by the Arroyo and Aquino regimes in the past four years – the conditional cash transfer (CCT) program. Its target of 4.3 million poor households by 2016 is just a fraction of the ever growing population crippled by low income and joblessness or lack of livelihood amid ever rising cost of living. Worse, the CCT is being used to gloss over the violation of the people’s right to adequate standard of living as it tends to smokescreen the wrong programs and policies behind the deteriorating poverty and hunger in the Philippines.

Right to health

The Philippine government, from Arroyo to Aquino has not lived up to its responsibility of ensuring the people’s right to health. Infant mortality remains one of the highest in the Southeast Asia region, at 23.2 per 1,000 births in 2010, or double that of Thailand (11.2) and nearly quadruple of Malaysia (5.4).⁸ Under 5 mortality rate is at 29.4 for the same year, or more than double of Thailand (13) and nearly five times more than Malaysia (6.3%).⁹ Births attended by skilled health staff are at 62.2% in 2008, far lower than its other SEA neighbors like Thailand, Malaysia and Vietnam.¹⁰

According to then Health Secretary Francisco Duque, doctor to patient (population) ratio stands at 1:28,000 in October 2007. Some 70% of all health workers are employed in the private sector serving 30% of the population.¹¹

Current expenditure on health as a percentage of GDP is at 3.3% (P234.3 billion), still below the 5% requirement of the Global Strategy for Health for All in the Year 2000.¹² Public health care accounts for only 9% of total health expenditures while personal health care accounts for 81%.¹³ National and local government spending combine for only 26% of total health expenditure, while out-of-pocket spending accounts for 54% of total spending.¹⁴ In its 2012 proposed budget, total national government spending on health is only 0.45% of GDP and 2.5% of the total national budget while debt servicing on interests alone accounts for 20%. While the P42.693B health budget for 2012 represents a 31.7% increase from the previous year, the Coalition for Health Budget Increase says this is not enough and has pushed for a P90 billion health budget for 2012. The group said that most of the budget increase for 2012 will go to financing the Health Insurance Premium as well as equity for “public private partnerships” for the so-called modernization of 25 regional hospitals. The coalition noted a zero increase in Maintenance and

⁸ WB World Development Indicators 2010

⁹ Ibid

¹⁰ Ibid

¹¹ National Institute of Health, University of the Philippines

¹² *World Health Statistics 2010*

¹³ *Philippine National Health Account, 2007*

¹⁴ Ibid

Other Operating Expenses (MOOE) in 5 of the 12 national capital region-based special hospitals and zero allotment for subsidy to indigent patients for confinement or use of specialized equipment.

The Aquino government has made the expansion of the National Health Insurance Program (Phil Health) and the “enhancement” of health facilities through private-public partnerships” as the main pillars of its health program. The PPP’s or privatization will weaken the public health system as it strengthens profit-oriented health care.

Right to social insurance

In his July 26, 2010 State of the Nation Address, Aquino gave three different estimates of social health insurance coverage: the conflicting 80% and 53% according to Phil Health and the 38% according to the National Statistics Office. While the Phil Health covers all persons, those in the informal sector are hard-pressed to pay the insurance premium. The insurance program also does not guarantee adequate health services because of limitations in its coverage, including lower price ceilings compared to the cost of services from private health providers. The effectiveness of health insurance is also undermined by the shortage in available health services given the low budgetary allocation.

Right to education

The right to education is not enjoyed by millions of school-aged youth. Apart from dire economic conditions, insufficient government allocation has affected this basic right. The GPH claim of a 79.6% gross enrolment rate¹⁵ is undermined by a significant drop-out rate and low completion rate. According to the Department of Education, while public school enrollment rate increased from 2008-2010, the elementary level dropout rate remains at 8.84% while secondary level dropout remained at 14.7%.¹⁶ Completion rate for public elementary is only 63.4% and 58% for public high schools. In 2009, around 3.3 million children aged 6-11 and 4.56 million youth aged 12-15 were out of school.¹⁷

While the 2012 budget for basic education is a 15.2% increase from the previous year, it is just **12.06%** of the P1.816 trillion total national government budget. Government spending for basic education per student per day, in real value, is P28.18 or less than \$1.¹⁸ The budget for basic and tertiary education is just 2.37% of the projected P11 trillion GDP for 2012, or less than half of the 6% standard set by UNESCO. The current budget is also below the 20% budgetary share for education set by the WB for developing countries. Debt servicing is 2.4 times larger than the education budget.

¹⁵ Consideration of reports submitted by States parties Fourth periodic reports of States parties Philippines, UNHRC, September 12, 2010

¹⁶ DepEd Briefer August 2010

¹⁷ DepEd Basic Education Information System, 2010

¹⁸ DepEd budget (real value) = total budget (P238.8 B)*100/CPI (2010=100) = 238.8

DepEd budget per school-age child per day (real value) = basic ed budget (real value)*1000/ total school-age population (22.71 million, age 6-15, as of 2010)

In the same budget, 51 state universities and colleges will receive budget cuts amounting to P573.96 million. By decreasing state subsidy, Aquino government is pushing SUC's to be financially self-reliant by relying on tuition fees and other commercial ventures.

The Kabataan Party (Youth Party) in Congress says that rechanneling P115.67 billion (15.66%) from the P738.6 billion budget of foreign debt will completely eradicate the shortages in the basic education sector. The Philippine Association of State Universities and Colleges meanwhile is pushing for P45.9 billion for tertiary education, or double the current level.

Right to housing

The National Housing Authority¹⁹ estimates that there are 584,425 families classified as informal settlers in Metro Manila alone as of July 2011. There are 761,482 families considered informal settlers in other regions outside Metro Manila, of which, around 518,625 families are in what government considers as "danger areas". The CTUHR reports 14 cases of forced eviction and demolition of houses of so-called informal settlers from 2010-2011. These affected 27,233 families or an estimated 103,555 people. Some 152 people were injured in the course of these demolitions. The NHA has also failed to complete its resettlement and slum upgrading targets, accomplishing only 76% in 2010 and 73% for the first 3 quarters of 2011²⁰.

¹⁹ National Housing Authority Presentation to the Committee on Appropriations, House of Representatives, September 5, 2011

²⁰ Ibid