

**Monitoring  
Economic,  
Social and  
Cultural  
Rights:  
The  
Philippine  
Experience  
PHASE ONE**

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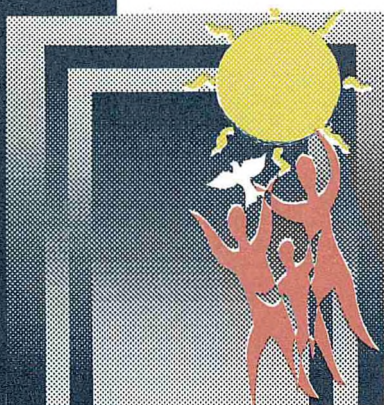
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# **Monitoring Economic, Social and Cultural Rights: The Philippine Experience PHASE ONE**



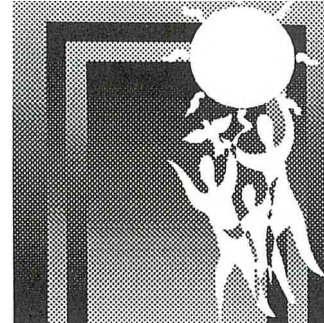
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# TABLE OF CONTENTS



<i>Foreword</i> .....	i
<i>Acknowledgment</i> .....	iii
 I. Introduction .....	1
II. Proposed Framework for Determining Standards and Criteria In Relation to Economic, Social and Cultural Rights .....	9
III. Promotion, Protection and Monitoring of Economic, Social and Cultural Rights: The Challenge to Human Rights Advocacy .....	33
IV. Newly Articulated or Re-articulated Economic, Social and Cultural Rights and Possible Indicators: A Contribution to an Emerging Paradigm in Philippine Human Rights Work .....	35
V. ESC-Related Glossary .....	75
VI. Notes and Recommendations .....	91
 <i>Bibliography</i> .....	93
<i>Annexes:</i>	
A. <i>Summary of Discussions in the         Working Groups on ESC Rights</i> .....	96
B. <i>List of Participants in the National Conference</i> .....	102
C. <i>List of Participants in the Regional Consultations</i> .....	104
<i>Notes on the Task Force Members</i> .....	107



# Foreword

**T**here are two major stumbling blocks that obstruct the efforts of those who wish to give substance to the concept of economic, social, and cultural rights. The first is one of promoting the use of the appropriate terminology, and the second is one of establishing societal accountability.

The first stumbling block arises because of an insistence on the part of government officials and their counterparts in international organisations, that the language of rights is superfluous or unnecessary in relation to development issues. "It is lawyer's jargon", they tell us. Or, they say, "It only creates false hopes among the poor", thereby unknowingly echoing the great British conservative Edmund Burke who relied heavily upon the same argument in denouncing the French Revolution. Anyone who has spoken with development economists, government officials or experts from international agencies about economic and social rights will almost certainly have been told: "What does it matter if we call something a right, a need, a goal, an objective, or a target? It makes no difference, since we all want the same result!"

Yet in Vienna in 1993, and in Beijing two years later, governments and the international community conceded that "Women's Rights are Human Rights". But why were they not content simply to say that "women's needs are human needs"? After all, surely, "It makes no difference, since we all want the same result!"

The reality, of course, is that it makes a world of difference. Needs can be deferred until those in power think it might be timely to address them. Needs can be defined and formulated by experts; they are usually seen to be eminently flexible and relative. They also have the advantage that governments, bureaucracies and international officials can keep the need of others "constantly in mind", while doing nothing tangible



about them. Rights, on the other hand, belong to individuals, who can and will assert them and strive to give them meaning and substance. They can be neither expropriated, nor defined, nor arbitrarily put on the back burner, by officials. It thus does not take a great deal of imagination to see why women want rights, while others would prefer them to have needs. That battle is on the way to being won. But the same officials who once resisted that approach continue to insist that young children who are deprived of vital educational opportunities, either because they are of the "wrong" gender, or because their parents are poor, or for numerous other reasons, have unmet "needs" rather than having a right to education which society is violating.

The second stumbling block in the way of promoting economic, social and cultural rights is that governments the world over proclaim their commitment to those rights while resisting any real accountability for the gross violations that they perpetrate, condone or ignore in relation to them. In some countries, governments insist that these rights are of such great importance as to take clear precedence over civil and political rights. But while thus conveniently downgrading civil and political rights, they simultaneously resist all efforts to set benchmarks or standards against which their performance in promoting the realisation of economic, social and cultural rights could be measured.

The present publication is of major importance, precisely because it tackles, head on, these two obstacles. It demonstrates the need to use the language of rights in relation to those entitlements of an economic, social and cultural nature that must be recognised within any reasonable conception of human dignity. And it shows the way towards the identification of appropriate standards or criteria that could be used in the Philippines to monitor these rights. For these reasons, this book and the wider project of which it is a part, constitute an important and valuable contribution in the struggle to achieve a conception of human rights which is neither specifically Western nor Asian but authentically human.

**Philip Alston**

*Chairperson, United Nations Committee  
on Economic, Social, and Cultural Rights*



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## Introduction

**E**conomic, social and cultural rights, in their very essence, are manifested in the day-to-day pursuit by every individual of a life with dignity. They inevitably become goals for nations striving to lift themselves up from age-old poverty and backwardness.

The struggle for economic, social and cultural rights is inseparable from the struggle for civil and political rights. Each would be impossible to realize without the other. And each gives substance to the other. Civil and political freedoms cannot be meaningful where economic, social and cultural rights are lacking. On the other hand, economic, social and cultural rights cannot be protected where civil and political rights are denied.

This understanding of the universality, indivisibility and interdependence of these two sets of rights animates the Philippine human rights movement today. It faces the challenge of integrating both these categories of rights into a comprehensive human rights



advocacy. With this integration, human rights work will address all the dimensions of a human being and the society in which he or she lives in; its goal will be to permeate all aspects of human life.

Such a consciousness, however, has yet to find its way into public policy. Although the Philippines ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) more than 20 years ago, the gap between the formal acceptance and the realization of these rights has yet to be bridged. The government paints a picture of increasing GNP, growing investments and other indicators of economic growth, considering these enough to represent the dignity of life of every Filipino. But the millions living inadequately with regard to their basic rights to food, housing, education, health and means of subsistence tell another story.

This other story, this other face of growth, is what the project to monitor economic, social and cultural rights hopes to capture in concrete terms. Initiated by the Philippine Human Rights Information Center (PhilRights), the project aims to come up with a set of indicators to measure the extent to which government claims of economic prosperity have actually been translated into the enjoyment of economic, social and cultural rights by the people. It seeks to pave the way for the setting up of a system to assess government's responsibility and monitor its performance with regard to the realization of those rights.

This book is a documentation of the framework and basic ideas that have informed this project, and the process and initial results of its first phase. Chapters II and III elucidates the theoretical and analytical underpinnings of the whole project. The *Framework for Determining Standards and Criteria In Relation to ESC Rights* provides a comprehensive framework for the monitoring of economic, social and cultural rights, having as take-off point the praxis of human rights as a whole. The *Promotion, Protection and Monitoring of Economic, Social and Cultural Rights* critiques the existing standards on ESC rights, as defined in the



UN instruments, and discusses the institutional biases and conceptual problems affecting realization of ESC rights.

Chapters IV and V embody the project's approach of strengthening the substance of ESC rights by deriving the definitions and standards from the people's experiences themselves. Resulting from wide-ranging consultations and discussions, the *Newly Articulated and Re-articulated Rights and Indicators* and the *Glossary of ESC-Related Terms* highlight the voices and perceptions of the people at the grassroots.

This publication is the initial output of pioneering moves to push forward the realization of economic, social and cultural rights. The results we publish here may be merely part of an outline. Together with continuing efforts to monitor and advance civil and political rights, we seek to capture the whole span of the human rights landscape in the coming years.

### **History/Background**

As mentioned, this book is part of the effort of the whole human rights movement to give attention to economic, social and cultural rights. It is the result of a three-phased project being undertaken by the Philippine Human Rights Information Center (PhilRights) in consonance with the 1986 mandate of the Philippine Alliance of Human Rights Advocates (PAHRA) to undertake comprehensive human rights work.

A response to the dynamic transition in the Philippine political system—from Marcos' martial rule to Aquino's and Ramos' "democratic reign"—this mandate has many implications for the whole track of human rights monitoring and advocacy.

A monitoring system for economic, social and cultural rights has long been on the agenda. In September 1993, PhilRights, as the research and information service institution of the Philippine Alliance of Human Rights Advocates (PAHRA), was tasked by its Board of Trustees to conceptualize a project to meet this requirement of the human rights



community. Thus, along with the PAHRA-Research and Documentation Coordinating Committee (RDCC), PhilRights proceeded to draft and spearhead the Project on "Developing Appropriate Indicators for Monitoring Economic, Social and Cultural Rights."

In June 1994, an early attempt began with the formation of working groups on children, environment and labor. This, however, was discontinued in December of the same year, due to personnel and financial limitations.

The project was resumed in April 1995, with a new project design incorporating a task force and grassroots consultations, in addition to the working groups. A project coordinator was hired in June, and a research assistant in October. Working groups were again convened. With the funding proposal submitted to the Philippine-Canada Human Resource Development approved in September, the project's first phase went full steam ahead.

The project's resumption could not be more timely, as concerns over the impact of government development projects were being raised in many areas in the country. The implementation of these large-scale projects to meet ambitious targets set in the Ramos government's medium-term development plan could not but have grave implications for economic, social and cultural rights.

The project recognized the possible dichotomy between development—as defined by the government—and human rights, the danger of development being pursued without regard for human rights. It affirmed human rights as a universal framework that should permeate any activity that concerns the quality of life of the people, most especially development.

### **Nature and Aims**

A review of the original concept paper provided the main guidelines for the early stage of Phase One. The primary aim was the formulation of appropriate human rights-oriented indicators that NGOs and POs



can use in assessing the performance of the government in their areas of concern. The end results should serve as a firm basis for a comprehensive answer to the question: *Is the government succeeding or failing in its obligation to respect, protect and fulfill the economic, social and cultural rights of the citizens?*

The project immediately benefits human rights organizations tasked to produce regular reports on the government's human rights record. The PAHRA, for one, has produced annual reports that have consisted mainly of findings on the observance of civil and political rights. It is hoped that the proposed indicators that the project will engender will help towards a more wholistic assessment of the human rights situation, which will lay the basis for comprehensive human rights advocacy.

Beyond this, the project is considered to be beneficial to the larger NGO community. Aside from PAHRA, any NGO or PO may use the indicators as an additional framework in which to treat their respective issues from the human rights perspective. These indicators are meant not to replace but to complement and even enrich present frames of references.

Hopefully, the setting of indicators will help to pave the way for cooperation within the NGO community in their various fields of interest and the forging of common standards that cut across different lines of work. These indicators will also provide concrete bases for direct services, education and lobby work.

### **Methodology**

From the very beginning, the project has been firm on the importance of a bottom-up approach, with emphasis on the human rights vision articulated by a truly empowered people. This approach rests on the premise that it is at the grassroots that the need for economic, social and cultural rights is strongly felt and where those rights are most lacking.

Thus, the project strove to combine grassroots experiences and experts' knowledge in the generation of data and ideas.



**Grassroots approach.** The grassroots approach aimed to draw from the extensive multidisciplinary experience of NGOs, particularly the human rights organizations. These experiences would be seen and analyzed from the perspective of human rights. It was hoped that through this would emerge the actual needs and expectations of a community or sector with respect to ESC rights.



The main vehicles used for this approach were the consultations done in Luzon, Visayas and Mindanao. In each of them, PhilRights conducted focused group discussions and used a participative method.

Each consultation started with an exchange of inputs between the Task Force and the local participants. Members of the Task Force gave a brief human rights orientation and a national human rights situationer, while local participants shared their specific experiences and current issues.

The consultations targeted participants from the various NGOs and POs working in the grassroots. These organizations were involved in various issues such as those of fisher folk, development, peasants, labor, Moro, indigenous peoples, environment and human rights. (See Annex on "Participants of Regional Consultations.")

The Luzon consultations were held in November 1995 in Metro Manila and in April 1996 in Baguio City. During May and June, a series of consultations were done in the cities of Cebu and Iloilo in the Visayas and Pagadian and Davao in Mindanao.

**Experts Approach.** The two main aspects of this approach were the Task Force ESC and the Working Groups.

**The Task Force.** Throughout the First Phase, a Task Force convened by PhilRights set both the overall and specific directions for the project.



The Task Force was made up of four human rights experts from the PAHRA network, namely, Mr. Ramon Casiple, Mr. Max de Mesa, Atty. Johannes Ignacio, Prof. Amado Mendoza, and also directly involved the project coordinator, research assistant and the PhilRights executive director.

The Task Force ESC was essential in giving the necessary inputs and frames for the analysis of the data. They held regular meetings, with agenda ranging from the conduct of the regional consultations to the critiquing of the major papers and outputs. They also actively participated in the facilitation and education aspect of the consultations, i.e., giving human rights orientation and situationers.

**The Working Groups.** On the other hand, the working groups were classified according to the different clusters of rights under ESC. These were in the following areas: health, education, internal refugees, development, work, Moro rights, women and housing.

Working groups on food and indigenous peoples were not convened. Those on children and environment were also not reactivated.

A working group is composed of experts on the particular cluster who are mostly based in national offices. They were expected to review the list of rights under each cluster; to assess existing indicators; to come up with a glossary of human rights terms; to look for possible rights peculiar to the experience of third world countries like the Philippines; and finally to develop new indicators for monitoring ESC rights violations.

The discussions of the working groups revolved around these guide questions: (a) rights in the cluster; (b) clarification on the rights; (c) determination of state obligations; (d) identification of violations; and (e) indicators.

During their initial meetings, the working groups were briefed on the project's nature and goals. After levelling off in their understanding



of the research framework, each group defined their working definitions of commonly used terms.

Most of the working groups were able to identify the nature of the rights violations and the appropriate state obligations. But some advanced to the identification of the indicators themselves, e.g., the working group on health rights. (See Annex on "Summary of discussions in the working groups on ESC rights.")

**National Consultation.** The culmination of the data-gathering process of Phase One was the National Consultation held on August 1996, with the central theme of *Realizing Economic, Social, and Cultural Rights*. Members of the Task Force ESC and working groups and participants in the regional consultations were invited to be part of this gathering. (See Annex on "List of Participants of the National Consultation.")

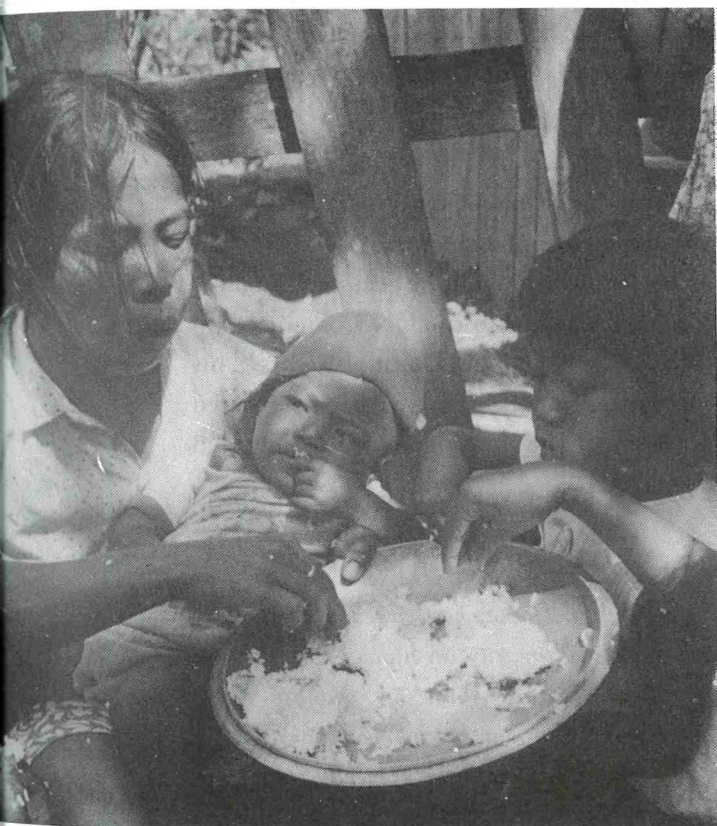
The four-day consultation produced a wealth of insights, comments, critiques and recommendations from the participants. Their evaluation and assessments of the project were also culled.

The process gave each one the opportunity to share insights not only on their specific sectors or cluster but also on other issues related to ESC rights. Through energetic discussions on the four major papers presented—framework, critique, rights and indicators, and glossary—they were able to raise points that had not been discussed previously.

In the end, they unanimously affirmed the importance of such effort to their particular calls for change. It is hoped that this will pave the way for the appropriate integration of human rights concepts with their specific visions and struggles. □



# Proposed Framework for Determining Standards and Criteria In Relation to Economic, Social and Cultural Rights



## Introduction

**T**he Philippine experience regarding economic, social and cultural rights and their monitoring has been rather sketchy. One of the major reasons is the dearth of practical and realistic standards by which to measure the practice regarding these rights. Related to this is the question of reliable indicators which can be the bases for monitoring the performance of State and non-State actors regarding economic, social and cultural rights.



The problem is compounded by a similar situation in the United Nations system. This, in turn, is related to the relative difficulty in conceptually solving the problem of standards and indicators of economic, social and cultural rights. These rights hitherto are seen as "positive" rights which necessitate State planning and commitment of resources. These are differentiated from supposedly "negative" civil and political rights, which do not need the commitment of State resources but only its observance of these rights.

This concept of economic, social and cultural rights leads to another concept which wormed itself into the International Covenant on Economic, Social and Cultural Rights—the concept of "progressive realization." This simply means that economic, social and cultural rights can only be realized step by step, based on available resources of the State. The inclusion of the requirement of "maximum available resources" does not negate the current practice of many States that excuse themselves from pursuing these rights vigorously and sincerely.

Progressive realization has been translated, in the UN approach, into the development goal-oriented approach that is so prevalent now not only at the UN and governmental levels but even at the non-governmental levels. In terms of standards and indicators, this approach has been

translated into the current human development index (HDI) framework.

The development goal-oriented approach has detached development from its human rights anchor. Despite the UN adoption of the Declaration on the Right to Development in 1986, there is still a major bias against the human rights framework regarding development. Consequently, human rights violations are practically confined to violations of civil and political rights. Probable human rights violations in the fields of economic, social and cultural rights conveniently hide behind "targets" and "goals."

The reluctance of States generally in developing the human rights approach to development is nowhere more glaring than in the failure to provide the necessary resources and commitment to the UN Committee on Economic, Social and Cultural Rights. This committee and its work have been neglected in favor of the development goal-oriented approach.

As Professor Virginia Dandan, a member of the committee, said, "[UN] work being done as well as those that have already been done, are focused primarily on human development indicators rather than on human rights indicators.... Human development indicators are premised on, or oriented towards goals, not towards rights. When you say goals, it's something



*that you reach for. But human rights, you're born with it... It is yours, by birthright."*

The challenge, therefore, is to come up with human rights standards and indicators in the fields of economic, social and cultural rights, approximating those in the fields of civil and political rights. These standards and indicators can be used not only in measuring the performance of State and non-State actors in relation to economic, social and cultural rights but, more importantly, in identifying their violations of these rights. Economic, social and cultural rights standards and indicators are important not only for governments but also for non-governmental organizations that advocate and want to monitor these rights.

### Applicable Human Rights Concepts

The proposed general framework for determining standards and indicators for

economic, social and cultural rights derives from the following interrelated concepts of human rights: the concept of universality, indivisibility and interdependence of human rights, the concept of relativeness in human rights; the concept of set-relationship in human rights; the concept of interrelatedness of universality of human rights and cultural pluralism; and the concept of human rights-responsibility of both State and non-State actors.

Human rights are universal, indivisible, interdependent and interrelated. Human rights and fundamental freedoms are the birthright of all human beings; the protection and promotion of these rights are the first responsibility of governments. The 1993 Vienna World Conference on Human Rights, in its Declaration and Program of Action, affirmed that the universality of human rights is beyond question. Representatives of 171 governments signed the declaration.

Human rights are currently recognized and practiced at the levels of both the individual and the collective (as community, as people or sector thereof and as the whole human race). The modern human rights system is based on the internationally-accepted human rights instruments, the most fundamental of which are the Universal Declaration of Human Rights and the two international human rights Covenants, one



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on civil and political rights and the other on economic, social and cultural rights.

Human rights were first implemented as individual rights. Later, rights at the level of entire social groups and the people as a whole were recognized as well. Examples of these later rights are the rights of women, children, indigenous peoples, workers, etc. Afterwards, rights belonging to the entire human race, such as the right to the environment, right to peace and right to development, were also incorporated into the modern system of human rights.

The universality of human rights suggests that universal human rights standards exist. However, the recognition of specific rights for social groups otherwise suggests the possibility of differing standards based on such divisions and other factors.

Human rights are not absolute rights, that is, in the sense that all of them can be upheld under all conditions simultaneously and for all eternity. The universality of human rights does not mean the absoluteness of the concept or of its application.

Human rights are also relative. First, in the sense that a right is circumscribed by other rights and cannot be used to violate those other rights. Second, in the sense that these are evolutionary, or developmental. As society advances and as human consciousness develops, new rights are recognized, old rights

acquire new meanings, and fulfilled rights are institutionalized.

Human rights are limited by other human rights. It is a basic tenet in the human rights concept that a human right cannot be used as an excuse to violate other human rights. Many international human rights instruments explicitly adopt this as a provision. The principle of the indivisibility of all human rights also embodies this proposition.

The universality of human rights is based on the following two premises: one, that all human persons, without exception, have inherent human rights, and, second, that particular human rights are recognized as such by the international community, as represented in the international human rights treaties, declarations and other instruments or agreements.

The first premise does not imply that human rights are already there (or recognized as such). There is first the question of determining these to be inherent rights of the human person or community as shown in social practice.

The second premise implies a process, precisely the process of identifying a right, advocating and struggling for it, and campaigning to get it recognized by the international community, both governmental and non-governmental. This process does not only cover the definition and recognition of



a human right. It also covers the agreement on a universal standard by which to measure adherence to or violation of this right.

For example, it was only in the 1970s that the right to the environment was recognized as a human right. It was not explicitly made a part of the UDHR nor of the International Covenant on Civil and Political Rights (ICCPR) or International Covenant on Economic, Social and Cultural Rights (ICESCR). Likewise, while there was an earlier recognition of the women's right to vote and the right of equal opportunities of women and men, it was only lately that many others were recognized in international instruments such as the Convention on the Elimination of Discrimination Against Women (CEDAW). Even then, there are still women's rights that are still in the process of advocacy at the NGO level.

It is, therefore, evident that human rights, while premised on their inherence in the human person, are only recognized as such after affirmation by the international community. Human rights standards, in the same manner, may be inherent in the same conditions of the human being. However, they became so only after the process of international agreement.

Human rights that are recognized in internationally-accepted human rights instruments represent the universally-

applicable rights. Other rights are in the process of being advocated for inclusion in these instruments or being advocated for recognition by the international community. The non-governmental organizations and various people's organizations lead in the latter process as they articulate grassroots issues and demands. Human rights, in general, spring from the inherent conditions of human beings, as they become conscious of these rights and struggle for them.

The present system of internationally-recognized human rights defines a set-relationship of rights. There are fundamental rights and freedoms enshrined in the Universal Declaration of Human Rights and other basic international human rights instruments. These instruments also contain subsets of derivative rights which are a consequence of the application of fundamental rights to specific situations or to specific social groups.

This proposition should not be misunderstood as negating the equality of human rights. Rather, it should be seen as an attempt to define the relationship between directly-related rights, particularly those rights that have core-derivative relation. This is particularly true for many of the economic, social and cultural rights.

For example, the right to life, a fundamental right, can be translated in the economic sphere as the right to property (for



property-owners), the right to work (for workers), the right to land (for landless tenants) and the right to ancestral domain (in its economic sense, for indigenous peoples). The latter rights are of the same category in the sense of their being a common right to access to economic means of life (or its sustainability). These rights may be argued to be in the same set (or subset) in the set relationship of rights.

Another example is the right to cultural participation. This right is relevant to the achievement of the free and full development of the individual in a human society. In this same category and at the same level are the right to education, the right to enjoyment of the arts and the right of access to fruits of scientific knowledge.

What this implies is that these economic or cultural rights can be addressed at the same time. This also implies that standards of any of these rights should satisfy the requirements of higher-set rights, not only its own.

This also presupposes a dynamic process of standard-setting. Human civilization advances and, in its wake, pushes ever higher the standards of human life. Human rights standards necessarily follow the requirements set by these standards. That is, they are continually upgraded to reflect the situation on the ground. This implies the determination of these standards through the processes of

investigation, consultation and participation of the people at the grassroots.

For example, the *right of access to mass media*, as a specific subset of the higher *right to information* (in itself, only a subset of the general right or *freedom of expression*), is a relatively new articulated right which recognized the huge impact on people's lives of technology-based media.

The concept of the set-relationship of human rights provides a direct and specific guide to standard-setting. Higher-level or core rights can be used to determine the standards of lower-level rights insofar as the latter (or their enjoyment) are expected to satisfy higher-level expectations.

The universalism of human rights encompasses the richness and wisdom of various cultures. On the one hand, human rights standards are rooted in many cultures. On the other hand, while recognizing cultural pluralism, cultural practices that derogate from universally-accepted human rights cannot be tolerated. The universality principle stresses the commonalities of human rights principles in various cultures while rejecting specific cultural practices which are violative of universal human rights.

This implies a common standard across cultures and defines a basic frontier in human rights advocacy. It is no secret that human



rights advocacy faces challenges in diverse societies, such as in the Arab countries or China, not only because of political biases but also because of deep-rooted views and cultural practices.

On the other hand, this also argues for understanding the particularities of varied cultures. That is, within the bounds of internationally-accepted human rights standards, the implementation of human rights in these cultures may take various forms and different processes. The form of the standards will also have to adjust.

For example, the right to food may imply an international standard in terms of calories, amount of protein, etc. in a daily diet. For every country, this may be translated into specific amounts of cereal grains (wheat, rice, corn, etc.) and of meat (beef, pork, chicken, etc.) in a daily diet of from two to four regular meals.

The realization of human rights is a responsibility of all members of society. However, it is the first responsibility of the State inasmuch as human rights express the relations between it and its citizens and insofar as the State is obligated to respect, protect and fulfill the human rights of its citizens.

Non-State entities or non-governmental entities may be liable for human rights violations. In this case, the State may also be directly or indirectly responsible for these

abuses, depending on its role of either abetting or encouraging these non-State violations or even by merely doing nothing.

The Declaration on the Right to Development pointed out the responsibility of all individuals and of the whole society with regard to upholding human rights. It, however, affirmed the role of the State or of governments to ensure those rights.

Human rights are historically relations between a government and its citizens. This is a relation of trust from the point of view of a citizen insofar as the State is perceived to promote, protect and develop the welfare of its citizens.

Part of this trust is the assumption that the State regulates social relations and prevents or punishes crimes against public order and arbitrates in cases of personal crimes. However, a special case arises when the State itself is guilty of crimes against its citizens and suppresses their rights. This is a human rights violation as distinguished from the former cases.

There is a strong move at the international level to broaden the definition of a human rights violation to include violations committed by *non-State entities* such as factional groups, armed insurgents and the political opposition. Amnesty International has come out in favor of holding *non-government entities* responsible for rights



violators, which would include such groups as transnational corporations, church-based entities and other non-political groups.

It is obvious that human rights standards can be equally applied to non-State actors. The difference seems to be only the question of responsibility. It is simply impossible to ascribe to the government the role of sole perpetrator of human rights violations, particularly violations of economic, social and cultural rights. At the grassroots, many violators of economic, social and cultural rights do not belong to the government.

The problem with violations by non-governmental entities has always been the question of accountability. The justiciability of these types of human rights violations is normally and must be covered by existing State laws or international treaty agreements. To this end, human rights advocacy must be directed at the State to pressure it to incorporate into the legal sphere coverage over such violations. This includes creating an international legal structure for international or interstate violations.

### Nature of Economic, Social and Cultural Rights

Economic, social and cultural rights, as part of over-all human rights, are universal. They are indivisible and interdependent, not only in relation to each other, but also with

civil and political rights. The question is stress, not separateness.

Economic, social and cultural rights are a bigger issue in the lives of the people except in extreme situations of dictatorship, repression, *coup d'etat*, and the like. In a normal situation, it is a big issue to satisfy basic needs and have access to proper education, health and cultural participation. Poverty and lack of development remain the basic ingredients for social upheavals.

These particular sets of rights, according to a 1989 study paper of the UN titled *Right to Adequate Food As A Human Right*, "*apart from being specific obligations of conduct, are*



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*also viewed as programmatic and broad program of results. The latter characteristic often leads to confusion, neglect or violation by governments in carrying out the necessary or adequate level of implementation required to satisfy these rights. Too often, 'progressive realization' of these rights become an excuse for negligence, inadequate implementation or even violation."*

There is a distinction between civil and political rights, on the one hand, and most of the economic, social and cultural rights, on the other hand. One of the major differences between the two is that the former consist of *specific obligations of conduct*, meaning that these have very definite, measurable standards and can be precisely defined. For example, torture has a precise definition, leaving no doubt whether a victim has been tortured or not.

Economic, social and cultural rights, however, have imprecise definitions and are essentially programmatic. That is, they cannot be measured readily and are based on largely subjective judgments. For example, literacy rate can be measured but only upon an agreement on what constitutes literacy (or illiteracy). This agreement is largely subjective and may vary from culture to culture.

This should not mean the impossibility of standard-setting for economic, social and cultural rights. But it does pose unique

problems of its own apart from the standard-setting for civil and political rights.

Governments have always treated economic, social and cultural rights as goals to be realized rather than as rights to be ensured. This is what is meant by the term *program of results*. It implies a possible governmental escape from its responsibilities with regard to these rights. Thus, for many governments, the principle and call for *progressive realization* of economic, social and cultural rights became a rationale for failure to adequately address these rights. Too often, lack of resources is cited as the major cause for government failure. Alleging this, they reject any accusation of human rights violation.

*Progressive realization*, on the other hand, can be a positive process whereby a government, through a genuine development program, steadily and comprehensively raises the standards of life of its citizens.

Related to, and a source of the confusion over, the implementation of economic, social and cultural rights is the question of standard-setting. According to the same study, "*The challenge ... is to identify the criteria which would help to determine in any given situation whether or not a State is in fact doing its utmost to promote respect for a particular right in accordance with its obligation.*"



A key area, therefore, in the implementation or monitoring of State (and non-State actor) performance in the field of economic, social and cultural rights is one of standards. Essentially, this means discovering or determining a correct common standard whereby a particular State (or non-State actor) can be judged as having performed well in protecting and promoting these rights and, conversely, as having violated these.

This is the value of the present efforts in standard-setting. If successful, such efforts can lead to a more productive advocacy.

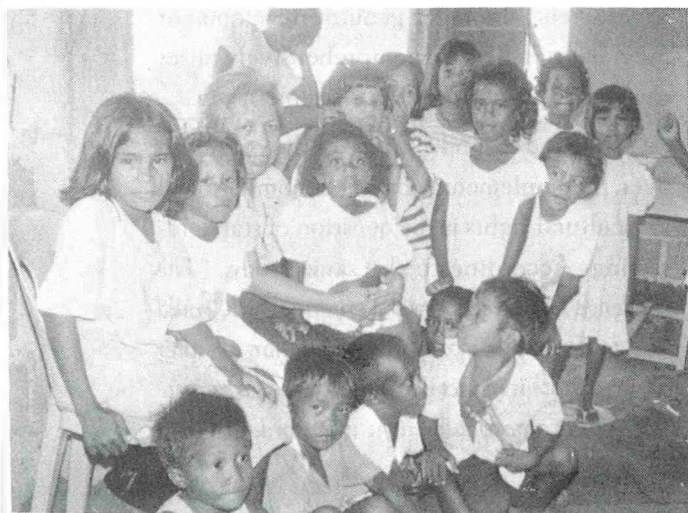
### Standards of Economic, Social and Cultural Rights

The effects of various factors or conditions on human rights standards in relation to economic, social and cultural

rights, and hence the need for flexibility in standard-setting, are recognized. The situation varies for each country, depending on current cultural norms, level of economic and social development, the prevailing political system, the environmental situation and presence of conflict situations. These factors, which need to be identified and agreed upon, may restrict or elevate standards. In the implementation of human rights standards, they may lead to the limitation or surpassing of targets. Hence, many of the economic, social and cultural rights have a range of standards, rather than a simple absolute standard.

However, there exist minimum standards that can be applied universally, particularly in relation to fundamental rights or core rights.

For example, standards with regard to the right to food necessarily would have to include minimum nutritional requirements to sustain the life of a human being. This implies a standard that cuts across national, ethnic, or cultural boundaries—it is truly a universal standard. The minimum standards can be the standards at the international level. They can be the starting point for determining the demarcation between a human rights regime and human rights violations in specific countries. The international minimum standards are the baseline standards that can be applied in all States and can be set at the global scale. Incidentally, this can be a





minimum index of the level of development of the global society.

However, minimum standards cannot adequately address the requirements of specific countries having different levels and methods of development. The proposal here is to adapt to the variety of country situations by setting up a system of flexible standards.

There should be adjustments in accordance with identified factors for each country. Optimum standards define the targets for State implementation of economic, social and cultural rights. The *progressive realization* principle can be applied in this context.

These standards, which may be called *optimum standards*, can be part of a system of international standards agreed upon by governments beforehand. In this sense, the human development index used by the UNDP can be part of such a system of standards. In itself, agreement on standards is a major incentive for governments to strive their hard to make good their governance.

One of the criteria, of course, is that there is a demonstrated State effort to progressively realize economic, social and cultural rights. Further on, based on the available resources, there are standards that can be set and agreed upon within the limits of the aforementioned factors. These standards define the actual realistic level to gauge state performance.

The key problem here is not in ascertaining the standards but in getting the agreement of the State party concerned that these optimum standards constitute the actual demarcation line between a human rights regime and human rights violation. This agreement is necessary for the effective implementation of these standards, at both the international and national levels. What can be done in this case is an international treaty defining economic, social and cultural rights standards which takes into account the particularities of individual States.

Optimum standards thus become part of the international standards for economic, social and cultural rights and can be used to monitor progress or violation by a particular State party. It will also minimize the acrimonious debate over "progressive realization."

Lastly, though maybe less important than the *minimum* and *optimum standards*, are the optional maximum standards. These can be set by the State party on its own initiative—as a measure of both its appraisal of capability and confidence in this capability. It is both a prestige matter as well as a desirable social objective for the State party concerned. Maximum standards, in this case, become a major criteria for defining the level of commitment of a State to human rights.



Maximum standards do not relate to human rights violations, i.e., non-fulfillment is not counted as a violation. They are connected rather to "progressive realization;" they become concrete targets to aim for.

### Proposed ESC Standards-Setting Design

Human rights standards, particularly the economic, social and cultural rights standards, derive directly from the needs of human beings to sustain human life and human society. In the words of the Stockholm Declaration of 1972: *"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being..."* The 1986 Declaration on the Right to Development defines it from a different perspective: *"...every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."* These standards are not mere standards for human survival but standards for the realization of a productive and fulfilling human life.

Raising the quality of life or, in a different context, development, is the fundamental direction of the fulfillment of economic, social and cultural rights. These, by themselves, express the general criteria for the standards.

These are not criteria or standards for survival or simple existence. What this implies are standards or criteria for a full and sustainable life, which must be reflected in the minimum international standards.

Admittedly, every State will have different capabilities for pursuing development. They also pursue this under differing circumstances. Therefore, the more important standards to be set are the country-specific standards, which aim for a practicable and adequate level vis-a-vis the resources available to State and society.

"Quality of life" and "development" are subjective concepts and therefore can be interpreted in various ways within differing cultural settings. It is therefore important for the people themselves to participate in development strategizing. This implies that their standards, as determined in practical life, should be a major basis for human rights standards.

The degree of participation of the people in development already represents one of the most important criteria in determining these standards. It must, however, be emphasized that through all the cultural diversities existing, there is the commonality of human survival, human society and human development, which establishes common standards for human civilization.



The subjectivity of the terms "*quality of life*" and "*development*" does not make standard-setting impossible. Rather, it adds more flexibility to the standards. There is the necessity for a broad consensus on the standards, if they are to be used as concrete guides for development initiatives.

This does not only mean passing a law, or legal action by the State or the United Nations. It also means the participation of the people, particularly at the grassroots. The reason is simple. It is their quality of life or their development that is being measured—not that of anybody else. They are the best judge of their lives, and the right of self-determination covers their right over their own lives. The right of the people to participate in development is one of the basic tenets of the Declaration On the Right to Development.

Here lies the strength of the approach of this research. In going to the grassroots, one can actually see the concreteness of the standards that are necessary and avoid the abstractedness of academic or laboratory approaches.

Again, this is not an argument for undisciplined anarchy in standard-setting. The purpose of going to the grassroots is precisely to enable the discernment of common standards in the lives of people. There is a seeking of commonality, which is the basis

for the standards, not the differentiation that affects the application later on.

The principles of indivisibility and interdependence of human rights and the concept of set-relationship of rights can be applied to human rights standards, particularly those pertaining to economic, social and cultural rights. These standards can be seen to have linkages with each other and, therefore, there should be a consistency and complementariness of standards. Standards should not negate or run contrary to each other.

The principles of indivisibility and interdependence of human rights require that the actual interrelations of all the rights be determined. This means investigating the possibility that for any one right, there may be opposing or modifying rights involved. Or conversely, the possibility that the right may affect other rights.

For example, the right to ancestral domain of *lumads* in Mindanao has to contend with a similar claim to that right by the Moro people and the claim to ownership or right to till by Christian settlers. Again, in many cases of development issues, the right of the larger community of beneficiaries (or the public at large) to development is opposed to the right of residents to their land, their culture, their ancestral domain, etc.



The key question to be answered is: How are these seemingly contradictory rights issues to be settled? Obviously, it has to be settled to the satisfaction of all rights claimants if peace is to prevail. Otherwise, the strongest will settle the issue unilaterally.

Standards are important in determining the meeting point of various rights claims. Here, the concept of set-relationship of rights is useful in determining the common larger-set right involved—up to the most fundamental of them all, the right to life.

Rights standards cannot contradict one another nor can they be used against each other. Standards have to have an inner consistency in consonance with the set-relationship of rights.

This is a suggestion for handling the proposed range of standards. The minimum international standards should aim for mandatory State compliance on the same level as the "*standards for conduct*" for civil and political rights. This should be based on an international agreement with force of law. These minimum international standards should define the essential content of a "*life with dignity*"—the quality of life set forth in various human rights instruments. This is beyond mere survival or mere existence. Due to the nature of these international minimum standards, they can also serve as an index of the human civilization.

Optimum standards, however, may vary from State to State depending on the differences among country situations. These should by no means be left to the individual States concerned but should form part of the international standards and monitored for State compliance, on the same level as the international minimum standards.

These optimum standards can be set by the individual States through a democratic process of consultation with the people and submitted to the United Nations for monitoring and assistance. NGOs and POs can play a positive role in this democratic consultation. With the standards, there is a basis for judging the performance of specific States.

It is proposed that the international minimum standards and national optimum standards define the boundaries of human rights adherence or violation of the economic, social and cultural rights. Again, this can be based on international agreement.

However, States cannot use their programs or priorities outside of addressing the objective limitations as basis for arguing against realization based on optimum standards. For example, devoting a huge amount to the military budget in a situation of autocratic rule and mass poverty can be condemned as a violation when such a



situation leads to non-achievement of optimum standards.

Also, by definition, optimum standards cannot fall below or be equal to the international minimum standards.

To this end, the UNDP human development index should be modified to take into account the diversity of country situations and the concept of a range of standards. The HDI should achieve the internalization of human rights standards within its conceptual framework and in relation to the actual criteria it employs. A dialogue between the human rights community and development agencies is called for.

ESC rights recognized by the State parties differ from those recognized by most NGOs. There are also rights recognized in a particular country and by a specific State party but not in other countries and by other State parties. There will, therefore, be divergences of standards as to their scope, level and even meaning. This should be expected.

The more important thing is that there be a set of ESC rights and standards accepted by all parties.

Human rights standards, particularly those pertaining to economic, social and cultural rights, are by nature dynamic and constantly changing, as society develops. It is, therefore, imperative to constantly monitor

developments in the field and regularly review, update and redefine these standards and the criteria by which these are determined.

The relativeness of human rights applies also to human rights standards such as those in the economic, social and cultural fields. Standards only reflect social developments. Standard-setting, therefore, becomes a constant and regular activity, which necessitates maintaining continuous contact with the grassroots and regular conferences at the national and international levels.

Human rights standards, like human rights themselves, are objects of advocacy and struggle. The States, either through the United Nations or individually, have the responsibility to set these standards and implement them.

There is no easy road towards the adoption of human rights standards, particularly in dealing with negligent or violator governments. In fact, there is the tendency on the part of governments to avoid the issue especially since many current governmental activities can come under close human rights scrutiny.

Non-governmental human rights organizations have as much responsibility to define, propagate and advocate human rights standards as their responsibility to advocate human rights. They have no choice but to conduct their own initiatives and issue their own common standards. This can form part



of the pressure on governments to pay attention to this neglected field.

The UN and the government should take the initiative in setting up such a system. NGOs should also have their own system, in order to countercheck government's standards and criteria as well as creating firm ground for advocacy and lobby on the standards with the UN and the government.

### Implementation of the ESC Standards and Standard-Setting Design

At the NGO level, there are at least two major phases that implementation of an ESC standard-setting project will have to go through: one, the determination and agreement on the standards; and, second, the advocacy, adoption, and monitoring of implementation of these standards.

These phases will necessarily have their own subphases. At the national NGO level, there needs to be a major effort to touch base with the grassroots, particularly people's organizations and key grassroots leaders and representatives to get their experiences. From this encounter, a national NGO/PO con-

ference or conferences can be held to summarize these experiences and draw up the proposed standards for various ESC rights, whether recognized by the State or not.

The results then become an object for lobby and dialogue with the State for adoption. Another direction is the submission of the results to the larger international NGO community for validation in relation to the experience of other peoples and for adoption of international NGO standards. Still another direction is the setting up of a monitoring system based on these standards.

The State, on its own initiative or in consultation with NGOs and POs, can carry out its own search for ESC rights standards and criteria, adopt these and submit the results to the United Nations for adoption by the international community.

The efforts at the national and international levels will culminate in international agreements on these standards. Once a critical mass of UN members ratify these agreements, they can be implemented in each signatory country. Those who do not sign will be the subject of further lobby and campaigns. □



## Promotion, Protection and Monitoring of Economic, Social and Cultural Rights: The Challenge to Human Rights Advocacy

Economic, Social and Cultural Rights and the Integration of All Human Rights

**I**t can well be said that the main challenge facing human rights advocates today is the integration of all human rights.

It was not too long ago that the order of the day was the defense of civil liberties. From the days of colonial rule to the Marcos martial law regime, and even during the Aquino administration, the clarion call of the people's struggles was for democracy under a truly sovereign regime.



LITO OCAÑO



Then, the focus of attention of the human rights movement was on violations of human rights in the form of torture, rape, disappearance, extra-judicial killing, arrest and detention. Other violations related to the counter-insurgency campaign such as massacres, bombing, hamletting and forced evacuations, were also the main concerns of human rights advocates.

The broader social issues such as land reform, workers' rights, women's rights, the environment and health were largely the domain of the social and political movements.

The connection between the broader social issues and the human rights issues of the day has never been contested within the Philippine human rights movement. In fact, human rights groups in the Philippines were even criticized for being too "political"—a recognition of the movement's close connection with the broader social movements of the time. However, for one reason or another, the interconnectedness and unity of all rights have not been fully explored and articulated by the human rights movement until recently.

Needless to say, the pre-eminence of civil and political rights over economic, social and cultural rights in terms of human rights advocacy was, and still is, a reality.

This imbalance has been fostered, if not caused, by the dichotomy between these two

sets of rights which exists both at the international and domestic levels.

This dichotomy, which also exists within our own legal system, has retarded the development of economic, social and cultural rights. It has also affected the development of the human rights movement in the Philippines.

In the past, the compartmentalized approach to human rights advocacy stirred debates in human rights circles about which set of rights should take primacy, or should be prioritized.

The more thoughtful, forward-looking position on this issue essentially asserted that all human rights are indivisible—the goal of human rights advocacy should be to promote, protect and advance all human rights.<sup>1</sup>

This realization did not result from an academic debate. It comes from the crucible of experience of human rights advocates working on the ground.<sup>2</sup> The connections between civil-political rights and economic-social-cultural rights have always been implicit, though never fully articulated.

With the advent of the Declaration on the Right to Development, all doubts about the indivisibility of human rights, and the need for integration of all human rights in both discourse and action, should be laid to rest.



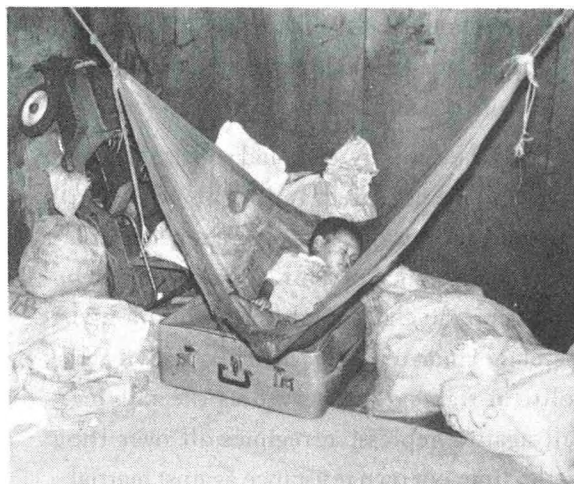
Whatever the reason, however, the lack of emphasis on economic, social and cultural rights must be recognized. Human rights groups should come to grips with the need to integrate economic, social and cultural rights into mainstream human rights work. It's time to take the bull by the horns.

This process of integration will have to contend, however, with present limitations relating to the development of the human rights principles and mechanisms both at the domestic and at the international levels. We have to contend with the fact that in the field of economic, social and cultural rights, strong enforcement mechanisms comparable to those for civil and political rights have lagged far behind.

This is a preliminary attempt to clarify these limitations and point to possible directions in human rights advocacy. It is hoped that this can start a process of reflection, discussion, debate and action towards the further growth and development of the human rights agenda in the Philippines.

### **Institutional Bias against Economic, Social and Cultural Rights**

At is not a matter of accident, nor wholly of convenience, that civil and political rights are much more well-entrenched and well-understood, and have better-developed



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enforcement mechanisms than economic, social and cultural rights.

Civil and political rights are commonly associated with the rights of the individual. When we speak of the rights of the individual, we can point more or less to hundreds of years of Western philosophical discourse, articulation and legal development since the time of Aristotle.

"Civil liberties" is the foundation of most of the Western democracies. It is, therefore, not surprising, given the dominance of the Western powers, that the emphasis on civil and political rights is as pervasive as it is.

This is not to say that civil and political rights have not been part of the struggle of Asian and other non-Western societies. This also does not mean that what has come to be known as the rights of the individual or civil



liberties should be dismissed as a Western invention, without validity and relevance in other cultures and other contexts.

On the contrary, civil and political rights have become accepted and deeply rooted in the human rights discourse, precisely because of the experience of Third World countries with repressive colonial and neo-colonial regimes. Human rights, particularly civil and political rights, have served as the rallying call against repressive regimes all over the world, from our own resistance against martial law to the political struggles in Latin America, Africa, and the rest of Asia.

The unassailable contribution of the human rights movement to the development of civil and political rights does not negate the basic principle, now well accepted by the international community, that all human rights are indivisible and interdependent.

By the same token, economic, social and cultural rights should cease to be regarded as a socialist tool designed to further the socialist agenda. This, even though it is a matter of historical record that the eastern bloc championed the recognition of economic, social and cultural rights as human rights in the United Nations.

If we are to move towards the integration of all human rights, there must be, at the very least, an acknowledgment of the historical

factors that have made economic, social and cultural rights advocacy, in a sense, the poor cousin of civil and political rights advocacy. This historical context must be accepted and understood, in order for us to realize that there is no intrinsic or inherent basis for giving primacy to one set of rights over the other.

If this is so, then it must be acknowledged that economic, social and cultural rights should be as equally demandable and enforceable as civil and political rights. As human rights advocates we should not accept the given limitations as insurmountable, or inherent in the nature of the rights in question.

### Conceptual Problems Lead to Practical Difficulties

But how exactly do we deal with economic, social and cultural rights in terms of human rights advocacy?

Economic, social and cultural rights are not yet well understood.

In the first place, conceptualizing "rights," understanding their implications, applying them to actual situations and recognizing the conditions in which rights are promoted or violated, are not easy tasks. Having rights recognized universally is a long drawn-out process.

In the second place, their highly contextual nature and the close association of



economic, social and cultural rights to matters political make it more difficult to see them as demandable rights. Or to be more precise, with the existing mind set about economic, social and cultural rights, ideological jitters arise when we start to talk about these rights as part of our birthright, and, therefore, ethically and legally demandable from the power holders.

In the third place, for rights to have legal enforceability, "rights" have to undergo a formal process of acceptance, in which it is accorded the status of a "legal" right. Assuming that the rights are given legal recognition, these do not become *ipso facto* enforceable.

Most jurisdictions, including the Philippines, do not consider economic, social and cultural rights as legally demandable rights. Economic, social and cultural rights are usually formulated as aspirations or motherhood policy statements without any legal sanctions for their enforcement.<sup>3</sup>

"The State shall protect and promote the rights of all citizens to quality education at all levels."

"Quality education" is stated as a right. In addition, Art. IX Sec. 2 (2) obliges the state to establish and maintain a system of "free" public education in the elementary and high school levels. There is, however, no

legal mechanism to enforce these provisions other than by electing a government committed to their implementation. Neither is there any legal sanction in case the government fails to implement these provisions.

While one may file a case when one is unjustifiably arrested (which makes that right a legally enforceable right), the right to file a complaint against the State for unemployment, lack of housing or malnutrition is generally not recognized!<sup>4</sup>

This has resulted in an absurd situation where the Commission can investigate alleged illegal arrest and detention in conjunction with demolitions and forcible evictions, but cannot investigate, nor act, on the demolition itself!

This dearth of legal advises for economic, social and cultural rights can be traced directly to the prevailing mind set in legal circles that economic, social and cultural rights are, by their nature, "soft" rights. They are not legally enforceable against the State and cannot be the subject of a violations approach. Rather, issues of unemployment, social services, social justice and social welfare are addressed to the political organs of government. These supposedly are properly the subject of programs of government for the general welfare, rather than a charter of "rights" which can be demanded of the State by citizens.<sup>5</sup>



This pervasive legal mind set is reflected in provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR) regarding promotion and protection.

The Covenant states that the obligation of the States parties is the "progressive realization" of economic, social and cultural rights. This formulation is radically different, and even contradictory to, the obligation of States vis-a-vis civil and political rights, most of which are immediately and unconditionally demandable.

The question that should be asked is, why should this be so? The fact that economic rights are "different" should not be a bar to developing mechanisms for their enforcement. If we see human rights as an indivisible whole, then these differences should not matter. Being but two faces of the same coin, both sets of rights should be equally demandable and reasonably enforceable. Only when this is fulfilled can the integration of all human rights into an indivisible whole be achieved in practice.

Another weakness of the Covenant is the lack of fundamental or minimum guarantees for the realization of economic, social and cultural rights.

For instance, one incident of torture committed by state agents is sufficient to hold

a state to be in default of its international obligations with respect to civil and political rights. Such is not the case with respect to economic, social and cultural rights. In the realm of civil and political rights, certain minimum guarantees are assured even in cases of public emergencies. (e.g., torture cannot be justified even in a state of martial law). No such non-derogable rights are recognized in the sphere of economic, social and cultural rights.

Thus, in the implementation of economic, social and cultural rights, there is a tendency towards absolute relativity and subjectivity. States parties enjoy a virtually uncontrolled discretion and margin of interpretation in the discharge of their international legal obligations vis-a-vis economic, social and cultural rights. Existing mechanisms are simply weak and ineffective.<sup>6</sup>

## The Challenges Ahead

### 1. Articulate specific types of violations of ESC rights.

NGOs should articulate specific violations that concretize the rights found in the ICESCR, as they have done for the ICCPR. "Torture," "salvaging," "incommunicado detention," these are all terms familiar to us. They have specific meanings based on actual experience, and relates directly to one or more rights found in international instruments.





PHIL RIGHTS

NGOs have been very effective in rights definitions, and they have a role to play in fleshing out what are "violations" in the field of economic, social and cultural rights.

Once these violations have been identified and their definitions more or less agreed upon, monitoring becomes simply a matter of collecting information and documenting these "abuses." Lobbying in the UN also becomes easier when done on the basis of clearly defined and understood concepts similar to those used for civil and political rights.

## **2. Identify and advocate minimum guarantees in international instruments for economic, social and cultural rights.**

There is clearly a need to revise the ICESCR. It should provide for minimum

guarantees similar to those found in the ICCPR. This means, for instance, stating in no uncertain terms that the right to form and join trade unions shall be respected, regardless of social, political, religious or economic context.

Experience tells us that it is only when such clear-cut parameters are set that rights begin to be taken seriously. Some would point as a practical barrier the difficulty in having this type of approach accepted by States. We should keep on reminding ourselves that the gains of human rights advocacy have been, and always will be, won by struggle. Nothing has changed in terms of the States' insistence on wider margins of interpretations, the couching of rights in ambiguous terms, or even the outright denial of the existence of rights altogether. There will always be debate, even in human rights circles. This is what makes human rights such a dynamic and challenging field.

## **3. Work for the imposition of limitations on State discretion and margin of interpretation.**

The principle of progressive realization and relative implementation according to available resources and varying degrees of economic development, poses a problem, if not properly delimited. Rights granted are rendered inutile, when States are given



unlimited excuses to justify non-implementation.

Based on our concrete experience, we should define what are the permissible limits, and what are the specific conditions in which these interpretations may be made. This will directly address attempts to use cultural relativism to defeat, or render useless, internationally recognized human rights.



PHILRIGHTS

#### **4. Continue the dialogue and debate on fundamental guarantees, integration of all rights, relativity and margins of interpretation.**

To be sure, the concept of human rights is a living, breathing concept. It is not static, but is continually evolving. We should continue the dialogue, because there are many issues that have yet to be discussed and resolved.

One important question that has not been discussed thus far is that of liability of non-State actors. Still another is the question of legally enforcing collective rights and recognizing the rights of groups of people to file complaints. These and many other issues will confront us along the way.

#### **5. Start monitoring violations of ESC rights.**

In the meantime, the problems that we now face should not stop us from performing our task of monitoring violations of economic, social and cultural rights. History has shown that it is the work of the people in the frontline that is crucial to human rights promotion and protection. There is no reason to believe that the situation has changed. We should not be hampered in our work because of the present legal limitations. We should go on and define for ourselves what constitutes "violations" of economic, social and cultural rights, and what the indicators are that tell us whether or not States are in fact fulfilling their human rights obligations under international law.

Hopefully, these activities will lead to the collective realization of the principle that many of us have known for a long time: all human rights form an indivisible whole. Each set of rights is not less, nor more important than the other, and must be respected, promoted and implemented together. □



## ENDNOTES

<sup>1</sup> "No one has ever doubted that the rights of the people are all of a piece. Equally so are the rights of man. But for convenience, the rights of man have been divided into two broad kinds: economic, social and cultural rights on the one hand, and civil and political rights on the other. This distinction has led to much argument about which kind should be given priority and whether one kind can be sacrificed for the other. My experience has convinced me that these arguments are silly." From "Human Rights Make Man Human," by Jose W. Diokno, in *A Nation For Our Children*, p. 5.

<sup>2</sup> "As lawyer for small farmers, fishermen, workers, students and urban poor, many of whom have been detained, most of whom have been threatened with detention, a few of whom have been shot and wounded when they were peacefully exercising their rights of assembly, I have learned the painful lesson that we cannot enjoy civil and political rights unless we enjoy economic, cultural and social rights, anymore than we can insure our economic, social and cultural rights, unless we can exercise our civil and political rights. True, a hungry man does not have much freedom of choice. But equally true, when a well-fed man does not have freedom of choice, he cannot protect himself against going

hungry." From "Human Rights Make Man Human," Supra.

<sup>3</sup> A perfect example of this is Art. IX Sec. 1 of the 1987 Constitution, which states:

*"The State shall protect and promote the rights of all citizens to quality education at all levels."*

"Quality education" is stated as a right. In addition, Art. IX Sec. 2 (2) obliges the state to establish and maintain a system of "free" public education in the elementary and high school levels. There is, however, no legal mechanism to enforce these provisions other than by electing a government committed to their implementation. Neither is there any legal sanction in case the government fails to implement these provisions.

<sup>4</sup> No less than the Supreme Court has held that the right to housing and to livelihood of the urban poor is not a "human right" in the sense intended by the 1987 Constitution when it gave investigative authority to the Commission on Human Rights under Art. XIII. This was the ruling of the court in the case of *Brigido Simon Jr. et al vs. Commission on Human Rights Gr. No. 100150 Jan. 5, 1994*.

This has resulted in an absurd situation where the Commission can investigate alleged illegal arrest and detention in



conjunction with demolitions and forcible evictions, but cannot investigate, nor act, on the demolition itself!

- <sup>5</sup> The soft approach to economic, social and cultural rights is indeed of dubious origin, considering that the function of the State is to provide for the general welfare. Why should it not be possible to sue the State where it knowingly or negligently adopts policies that destroy the environment and impoverish people, or where it neglects to provide for basic social services such as

health, housing, education and employment? If a person who is tortured is given a legal remedy, why not a person whose culture and way of life are destroyed and who is unable to find means of livelihood in the streets of Manila?

- <sup>6</sup> Related to the weakness in the formulation of the ICESCR is the fact no complaint system under the Covenant has been provided, unlike the Covenant on Civil and Political Rights.

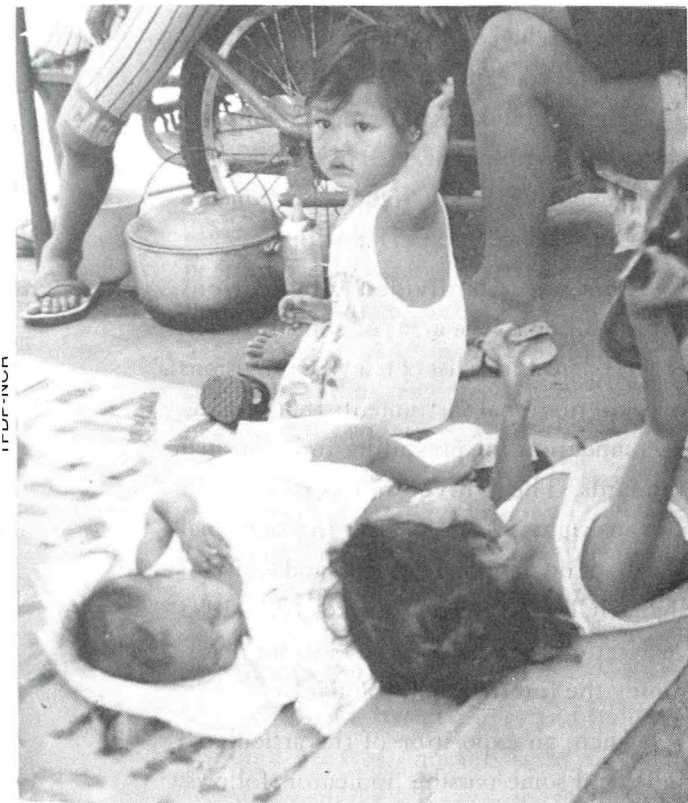


# Newly Articulated or Re-articulated Economic, Social and Cultural Rights and Possible Indicators

A CONTRIBUTION TO AN EMERGING PARADIGM  
IN PHILIPPINE HUMAN RIGHTS WORK

## INTRODUCTION

While economic, social and cultural rights have long been articulated in international instruments, it is only in recent years that these rights have become the focus of attention of Philippine human rights advocates. Advocacy for economic, social and cultural rights, however, needs to be based on a common set of standards—and ways of measuring the fulfillment of these standards—that will guide human rights and people's organizations





in determining whether those rights are being promoted or violated by the State. To contribute to this effort, the Philippine Human Rights Information Center (PHILRIGHTS) embarked on a project to develop a set of indicators for economic, social and cultural rights to be drawn from grassroots experiences, and in the process, to lay the foundation for the setting up of a monitoring system for those rights.

This paper attempts to capture, though very initially and certainly not comprehensively, the ideas and insights gathered during consultations held all over the Philippines by PhilRights for the first phase of this project. During these consultations, NGO workers, grassroots activists and experts in various fields related to economic, social and cultural rights sought to articulate the rights arising from the conditions in their sectors or areas of work and possible indicators for these rights, based on their feel of the situation on the ground. The articulated rights address the felt needs and perceived problems of the people, while indicators provide the

concrete basis for measuring whether, and to what extent, the rights are being enjoyed.

Working groups and regional and national consultations served as the main source of data for the first phase of the project and, more importantly, as threshing ground for the initial list of rights and indicators drawn. From the discussions in those venues emerged fifteen (15) areas of concern impinging on economic, social and cultural rights.

These areas of concern are: (1) health, (2) internal refugees, (3) indigenous peoples, (4) work, (5) education, (6) land and peasants, (7) adequate standards of living, (8) cultural rights, (9) environment, (10) fisherfolk, (11) development, (12) Moro rights, (13) women's rights, (14) peace and (15) governance.

This paper is divided into sections corresponding to the areas of concern. Each section opens with a list of relevant provisions from international instruments that provide the foundation for prevailing international standards. The Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Bangkok NGO 1993 Declaration were used as the basis for determining the international standards.

Then, an exposition of the articulated rights and some possible indicators follows.



Each indicator is integrated with the particular right to which it is related, to show the connection between right and indicator. Although, where possible, a brief explanation of each right is given, there is no attempt to explain each indicator.

The quality, level and extent of discussions in the different groups varied. In some, participants had extensive discussions and managed to produce a more or less systematic listing of rights and indicators. In others, they were only able to skim the surface, and the indicators proposed are closely tied to their own particular experiences.

Admittedly, there are some areas of concern (e.g., health and education) that have more data and hence are more detailed in presentation than others (e.g., fisherfolk and peasants). The strength and depth of focus on a few areas do not indicate a ranking according to importance, but are more a reflection of the present reach and capabilities of PhilRights and its network during the first phase. Those areas not adequately covered are grouped separately. This is an indication of neglected sectors that have to be looked into, even in human rights work, and the need for the project to improve its groundwork and network in those sectors.

Thus, the list of rights and indicators in each area of concern is by no means exhaustive or final; it needs to be refined and

broadened in the succeeding phase of the project.

The main limitation of this paper, and also the entire research project, is that no extensive archival research (including critique) was done on the indicators already existing in the different areas covered, and on similar studies that have been or are being conducted. For this, we ask the indulgence of the reader and hope that the paper will be read for what it is—a first attempt to define and clarify the ground of an emerging paradigm in human rights work: monitoring violations of economic, social and cultural rights.

## **I. Health Rights**

### **Prevailing International Standards**

The Universal Declaration of Human Rights (UDHR) of 1948 states in Art. 25, 1: "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including [...] medical care, and the right to security in the event of [...] sickness, disability [...]." This is amplified in the International Covenant on Economic, Social and Cultural Rights of 1966, which states in Art. 12, 1: "The States Parties to the present Covenant recognize the right of everyone to the highest attainable standard of physical and mental health." Art. 12 also enumerates the following standards which States Parties must take steps to realize:





"reduction of the still-birth rate and infant mortality, and healthy development of the child;" "improvement of all aspects of environmental and industrial hygiene;" "prevention, treatment and control of epidemic, endemic, occupational and other diseases;" and "conditions assuring all medical services and attention in the event of sickness."

As signatory to these international instruments, including that on Civil and Political Rights, the Philippines is obliged to make their contents part of domestic law. Although the Philippine government acceded to the ICESCR as early as 1976, it was only in the 1987 Constitution that these rights were

included, specifically in Art. 13, "*Social Justice and Human Rights*."<sup>1</sup>

The Bangkok 1993 NGO Declaration, though not officially binding on States, can be said to articulate regionally accepted standards, agreed upon by a broad range of the NGO communities in the region. In the declaration, health standards are contained in nearly all articles, from #3 which deals with Women's Rights are Human Rights up to #15 on Refugees and Displaced Persons.

### **Articulated Rights and Possible Indicators**

The Medical Action Group, which led the Working Group on Health Rights, contributed the format that is used in this section. The discussion of health rights, however, has not been limited to this format. The rights have been grouped into the three components proposed by MAG, to which have been added "quality health services" and "mental health." The last is one dimension of health that has not been given much importance in Philippine society.

#### **✓ Right to health care**

Aspects of this broad right include the following: (1) right to [free and easy]<sup>2</sup> access to medical personnel, (2) right to social welfare [health care]<sup>3</sup> for the aged, (3) right to [free] quality health services, (4) right to access to [free] medical supplies, (5) right to child health [comprehensive family health



care], and (6) right to access to optional methods/forms of medical treatment and healing.

- (1) The severe lack of medical personnel in the rural areas and the difficulty of access to such personnel when they are present, were among the gravest problems brought out in the discussions on health. Often, persons with common ailments die because there are no trained personnel around or their access to such personnel is effectively denied, owing to lack of information or money.

The situation seems to have grown worse with the devolution of health services from the national center to the local governments units. It was pointed out that funding for health services, personnel and equipment has been considerably reduced since money for these purposes must now come from local government resources.

The proposed indicator for this right is: accessibility of health personnel, with the following specific components: (a) a ratio of four midwives, one nurse and one community health worker for every 10 families; (b) a ratio of three doctors for each municipality; and (c) skilled personnel who have taken a curriculum applicable to the Philippine setting.

- (2) Filipino culture looks at caring for our aged as part of the family's responsibility. Unlike in the Western countries where homes for the aged are common, in the Philippines there are very few such institutions. As much as possible, finances and available family members allowing, aged parents and other older relatives live at home, usually with one of the children/nieces/nephews. However, in increasingly hard times, when there are just too many mouths to feed (especially when there are still young children and income is too little), the aged have last preference. This right implies that the State must assume responsibility for another support system that can take care of our aged.

There are three proposed indicators for this right: (1) ensured support structures for care, especially when the family is unable to take care of its aged, (2) availability of a system of sustaining a productive life for the aged, and (3) implementation of a system of social security for the aged. For the first indicator, four components were identified: (a) identification of the kinds of support system; (b) maintenance of such support structures; (c) budget; and (d) trained personnel.

- (3) If basic health services are deficient in the rural areas and even in some urban



areas, **quality health services**—i.e., well-equipped health centers with a full range of trained health personnel—are even more so. Quality health services are available only in expensive private health care institutions, making them inaccessible to majority of the population. The importance of this right can be seen in the fact that in all areas covered by the project, it was consistently mentioned.

One proposed indicator for this right is: **accessibility of affordable health facilities, medicine and services**, with the following components: (a) fully-stocked barangay health centers; (b) availability and affordability of basic drugs and health supplies; (c) availability of emergency supplies (government-stocked); (d) maintenance of medicine and other needed supplies; and (e) free and socialized services.

Other indicators are: (a) **affordability of medicine, equipment, programs and services** (Cf. first health right above); (b) **accessibility of sources of medicine**, etc.; (c) **quality control of medicine**, with the following components: standards of quality attuned to Philippine realities, appropriate tests administered, qualified personnel in-charge; (d) **adequate skilled personnel**, with the following components: availability and distribution of such

personnel at the grassroots level, and ratio of personnel per population; (e) **quality of training**, which includes training schools and centers, practicum and continuing updates in related fields; (f) **ratio of medical facilities per population**, e.g., fully-equipped barangay health centers (where minor surgery can be done) and one trained paramedic per barangay; and (g) **availability of emergency facilities and services**.

- (4) Emergencies, especially among the poor, become a matter of life and death. The situation is exacerbated when there is no access to medical supplies, either because none are available or they are available only at high prices. Indicators for this right are those found in (3) above. It was strongly recommended that the drug industry (which is dominated by foreign-owned companies) be nationalized as a condition for lowering the cost of needed drugs.
- (5) In this right, a specific protected sector is targeted: children. Though the Philippines is a signatory to the Convention of the Rights of the Child, where this right is articulated in Art.14, Sec. 1, the fact is that the health of the child is not given the overriding importance it must be given. Children's health continues to deteriorate in the face of increasing



poverty, social problems that affect the family situation, inadequate information and other factors.

The indicators for this right include: (a) incidence of infant mortality; (b) availability of pre-, during, and post-natal care system; (c) ratio of child deaths from preventable causes; (d) provision for special care of infants and children (including special children like the disabled and those suffering from trauma); and (e) implementation of immunization programs for infants less than one year old.

- (6) Health care in the country relies too much on drugs manufactured by mostly foreign-owned pharmaceutical companies. This points to the imposition of a Western way of addressing health concerns on a populace that is too poor to afford it. Meanwhile, valid and appropriate local health practices handed down through generations are not tapped and developed.

People, particularly among the grassroots, are looking for an alternative to the Western-oriented medical approach to health care, protection and maintenance, with its concomitant high cost of medical supplies and services (not to mention the fact that certain strains of diseases resistant to Western drugs have emerged). Many are turning to alternative

medical treatment and healing, e.g. natural healing, herbal medicine and other similar therapies. Healing practices in indigenous cultures within the country can be studied to draw on their positive, life-giving aspects, for example, the role of traditional healers like the *babaylan*.

The indicator for this right is: availability of traditional forms of healing.

#### ✓ Right to health promotion and protection

Subsumed under this right are the following: (1) right to access to [health] information, (2) freedom from disease, and (3) right to access to optional methods or forms of medical treatment and healing.

- (1) Information on the latest developments in health care, promotion and maintenance, as well as on health services that are available to ordinary Filipinos, oftentimes does not reach the people. Even information on such a simple matter as where/whom to go when there is a health emergency is not readily available. High-profile programs of the Department of Health (such as the "Patak" campaign) have heavily-funded campaigns to reach the grassroots, but information that can prevent the spread of disease is often wanting. While it is true that the DOH makes use of the tri-media to disseminate





pertinent facts about prevalent diseases, it has no palpable, long-term, sustained, intensive and extensive health information campaign.

The proposed indicators for this right are: (a) availability of health information, specifically availability of information on sanitation; (b) systematic information dissemination through grassroots health education and a public health information system; and (c) sustained research on health promotion and disease prevention.

- (2) Given the current state of the country's health system, freedom from disease remains far from reach for the poor. Can one be free from disease when malnutri-

tion is widespread, there is lack of safe and potable water, and sanitation is non-existent? One of the earliest discussions in the Working Group on Health centered on incidence of diseases linked to very common occurrences. During the national consultation, a further refinement in the concept of this right was added: freedom itself must be an indicator. A firm recommendation was that intensive research should be done on protection from possible diseases. It was emphasized that such research must be in the context of conditions prevailing in the country.

The indicators articulated for this right are the following: (a) **incidence of diseases caused by negative attitude and mind set** (or the rise of diseases caused by negative attitude and mind set); (b) **incidence of tension- and stress-related deaths** (or the rise of tension- and stress-related deaths); and (c) **incidence of high cholesterol-related diseases and affordability of high-cholesterol food to the ordinary Filipino**. It was observed that a popular sidewalk food item "isaw" (or chicken feet), which has high cholesterol content, is the common person's food because of its affordability.

#### ✓ **Right to health maintenance**

The rights that belong to this group include: (1) right to adequate supply of safe



and potable water; and (2) right to good nutrition.

- (1) Continuous supply of safe and potable water is becoming a major problem in the Philippines, not only in the rural areas, but more so in the urban centers. Filipinos are increasingly prone to water-borne diseases, as shown in the outbreaks of cholera even in urbanized areas. Typhoid, dysentery and urinary tract infections are the other water-related illnesses that ordinary Filipinos are vulnerable to. Exacerbating the water problem is the influx of industrial companies that compete for the scarce water resources of communities and whose operations often result in water contamination.

Cebu is a prime example of a boom center that is fast reaching a water crisis, owing to the rapid disappearance of its watersheds and unrestrained industrial and commercial growth. There are plans to tap neighboring Bohol for a possible source of Cebu's water requirements in the future.

The development program of the government has emphasized the building of hydro-electric dams supposedly to increase the supply of water, both potable and for the fields. But such projects have benefited mostly the industrial parks and

big agri-business ventures rather than small farms and households.

In addition, the construction of dams has provoked mounting protests from indigenous peoples who have been or stand to be displaced from their ancestral lands. Government promises to the displaced communities that they would be adequately compensated for their losses have not been fulfilled, thus opposition to the building of dams has grown considerably through the years.

Indicators for this right include: (a) availability of safe and potable water; (b) a mechanism that ensures continuous supply for the needs of the population; (c) implementation of such a mechanism.

- (2) Tuberculosis is still one of the major killers in the Philippines—a disease directly related to the state of nutrition of the people. Malnutrition is found among all age groups, but most especially among infants, children and mothers. It is also found in all the regions we visited, and in both rural and urban areas. Poverty incidence, still high in areas both distant from and deep within urban centers (e.g. Manila, Cebu, Davao), is a prime contributor to this situation, as it affects all other situations under discussion in this paper.



Indicators proposed are: (a) **nutrients needed for balanced diet: nutrients needed per age group, per gender**; (b) **availability of basic food groups needed for balanced nutrition**; and (c) **affordability of basic food groups needed**. As mentioned earlier, the daily diet of the ordinary Filipino is often made up of cheap sidewalk food items such as "isaw," which pose dangers to health.

✓ **Right to the highest possible standard of mental health**

Mental health has not been given much attention, despite the growing stress and tensions generated by the increased pace of life, especially in the highly urbanized areas of Manila, Cebu and Davao. Information and education on mental health are inadequate, and organizations like the Philippine Mental Health Association do not have enough resources for campaigns to raise public awareness about this dimension of health. In the discussions on health, the Medical Action Group stressed that not only the physical side of health must be considered but the entire psycho-social aspects as well, including mental health.

One recommended indicator for this right is: **government assistance to develop indigenous practices**.

The importance of giving attention to mental health can be seen in the fact that

the state of one's emotions has been shown to directly contribute to the general health condition of an individual. There is a dearth of data on mental health, and mental illnesses are not much understood, pointing to the need for more research in this area. The difficulty lies in the highly qualitative and subjective nature of mental health.

Proposed indicators include: (a) **suicide rate**; (b) **incidence of paranoia**; (c) **incidence of depression**; (d) **incidence of drug abuse—rate per population**; (e) **incidence of other types of anti-social behavior**; (f) **incidence of drug addiction**; (g) **availability of mental health services, availability of psychiatric counseling services**.

## II. Internal Refugees' Rights

### Prevailing International Standards

Most of the standards that pertain to all persons are of special significance to individuals and communities that are forcibly displaced. Some of these standards are found in the following sections of international human rights documents:

Universal Declaration of Human Rights, specifically Art. 13 #1 on the freedom of movement; Art. 18 on the right of freedom of thought, conscience and religion; Art. 19 on the right to freedom of opinion and expression; Art. 20 on the right to freedom of peaceful assembly and association; and Art.





22 on entitlements to the realization of economic, social and cultural rights which are indispensable for a person's dignity and free development. Articles 10-13 of the International Covenant of Economic, Social and Cultural Rights are of crucial significance to internally displaced persons, which include internal refugees.

There is no international instrument as yet that covers the growing problem of internal displacement in the world since the end of the last world war. What do exist are institutions and instruments addressing the situation of international refugees as follows: <sup>4</sup>

- 1) the International Refugee Organization established by the UN General Assembly in 1946;
- 2) the Office of the UN High Commissioner for Refugees (UNHCR) established by the UN General Assembly on 3 December 1949, initially set up for a period of three

years, and extended every five years until the present;

- 3) the International Refugee Law, which covers:
  - a) The 1951 Convention relating to the Status of Refugees
  - b) The 1967 Protocol relating to the Status of Refugees.

Parts of the following Conventions and Declarations have provisions that may be relevant to refugees: the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War - Art. 44; the 1954 Convention relating to the status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness; and the 1967 UN Declaration of Territorial Asylum.

Aside from the above, the 1993 Bangkok NGO Declaration has also pertinent sections regarding this issue, an articulation of the concern that Asians have for the millions of internally displaced in the region: #7 on "militarization... that has resulted in forced migration;" #12 on the indigenous peoples whose "right to land and other rights are not respected ... consequences are expropriation and despoliation of their lands, armed conflicts and displacement as refugees;" #13 on children's survival, protection, development and participation; and #15 on refugees and displaced persons' "rights [which are] violated in the name of restrictive national policies."



In the light of the absence of any one international body that addresses the situation of the internally displaced, the following quote is revealing: <sup>5</sup> "... a UN system must be created that clearly and rapidly assigns responsibility when emergencies occur and assures that both assistance and protection are provided."

### Articulated Rights and Possible Indicators

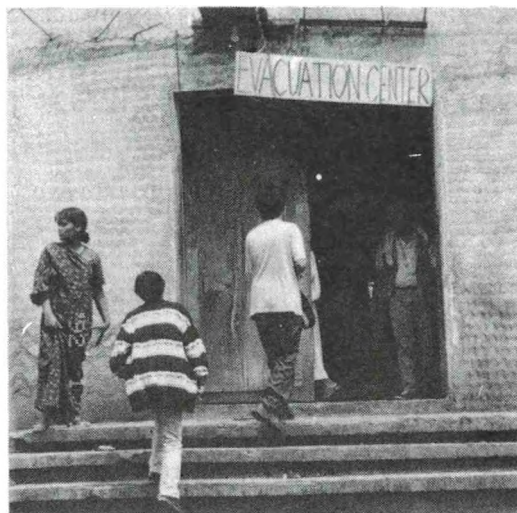
Based on the Philippine Declaration on Human and Peoples Rights, which has yet to gain international acceptance, there are four rights of internal refugees: (1) the right to relief; (2) the right to just indemnification; (3) the right to voluntary and safe return to original communities; and (4) the right to rehabilitation.

#### ✓ Right to Relief

Problems arising from military obstruction of NGO relief assistance to internal refugees gave rise to the articulation of this right. With the increase of displacement cases, especially as a result of the implementation of government development projects, coordinated and systematic relief efforts become imperative.

Proposed indicators include: (a) adequate budget allocations for needs of internal refugees; (b) provision for immediate delivery of assistance; (c) the existence of an emergency network that cuts across bureaucracy.

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#### ✓ Right to Just Indemnification

What is "just" in the context of different displacement experiences goes beyond mere provision of compensation and redress of the violations that have taken place; it includes restoration of the dignity and wholeness of the affected people, the community they live in, and the entire culture that has been disrupted.

Proposed indicators include: (a) cultural sensitivity when giving indemnification; (b) an operating definition of "just"; and (c) payment for physical and moral damages, the manner of which is also culture-sensitive.

#### ✓ Right to Voluntary and Safe Return to Original Communities

Many times the original communities have been razed to the ground—transformed into dams, golf courses, tourist spots and other



development projects, or otherwise turned uninhabitable. It then seems that this right would be rendered useless. This is especially true at the present time, when implementation of land conversions of agricultural land to commercial, residential and tourism areas has been accelerated.

Proposed indicators include: (a) provision for security of refugees; (b) existence of original community; (c) existence of sources of subsistence within the area where community is; and (d) consultation and participation in decision-making of affected families and individuals.

#### ✓ Right to Rehabilitation

Covered by this right are two other rights: the right to relocation and the right to an improved quality of life. Participants in the national conference added still two other rights: the right to access to information and the right to proper consultation.

In the Third World context, it is not enough to return internal refugees to their previous life (which is usually mired in poverty), but also to extend help towards their social development. Hence, it is also important: to improve the quality of life (which is part and parcel of the rehabilitation aspect), with the following indicators: (a) health indicators previously mentioned, (b) education indicators (in Section V), and (c) land indicators (in Section VI). There are also

special indicators for indigenous peoples, if the area affected has an indigenous group. Concomitant with this right is the strengthening of legal protection for internal refugees.

### III. Rights of Indigenous Peoples Prevailing International Standards

In the UDHR, the following rights are particularly important to indigenous peoples: Art. 1 - All human beings are born free and equal in dignity and rights; Art. 2 - Everyone is entitled to all rights and freedoms set forth in this Declaration... without distinction of any kind, such as race, color...; Art. 3 - Everyone has the right to life, liberty and security of person; Art. 12 - No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attacks upon his honor and reputation; Art. 13, which guarantees freedom of movement and residence within borders of each state; Art. 25, which states the right to adequate standards of living, including health; and Art. 26, which states the right to education.

The ICCPR, in Art. 27, talks of the rights of ethnic, religious or linguistic minorities. The ICESCR has several standards that can be applied to the situation of indigenous peoples: Art. 1 on the right of self-determination, Art. 3 on the equal right of men and women to the enjoyment of ESC rights;



Art. 10 on the protection of family, mothers, children and the young; Art. 11 on the right to adequate standards of living; Art. 12 on the right to enjoyment of the highest possible standards of health; Art. 13 on the right of education; and Art. 15 on the right to take part in cultural life.

### **Articulated Rights and Possible Indicators**

The following rights are taken mainly from the Philippine Declaration of Human and Peoples Rights. In the national conference, some of these rights were also discussed, with some indicators mentioned. However, more discussion is needed to clarify the content of these rights and to check whether they truly reflect what the indigenous groups believe are their rights.

#### **✓ Right to self-determination**

While this right includes self-governance, self-determination has many shades of meaning to the different indigenous groups in the country. This is reflected in the list of indicators suggested: continued use of their own system of governance or implementation of their own system of government; the continued use of their own system of justice, provided it does not go against international human rights law; the laying down of their own vision and goals, especially for development programs (which would include the unique systems they have such

as their educational system, their methods of labor compensation, their being guardians and stewards of the forests and mountains they live in); the existence of a leadership that is duly recognized by the community; genuine representation to the central government; tribal possession of ancestral domain or territory.

#### **✓ Right to existence as a distinct people**

In the light of the rapidly vanishing indigenous cultures, if not peoples, this right has been emphatically reiterated. There are several causes for this: the intrusion of lowlanders into what were once preserves of these groups; the encroachment of development projects into their lands; militarization; natural assimilation with more dominant cultures.

Indicators for this right include: the absence of forced measures of assimilation or integration; the banning of ethnocide and genocide; protected habitats; preservation of culture or heritage in museums, preserving their own school or educational system, dialect, having commemorative days.

#### **✓ Right to equality with all other peoples**

Because of the discrimination suffered, either consciously or not, at the hands of the dominant sectors of the society, this right has been stated. Beneath this is the unspoken plea



of indigenous peoples for respect for their dignity and the ways of life inherited from their ancestors, no matter how different.

Indicators for this right are: access to basic services including economic and technical assistance; freedom from all forms of discrimination; equal treatment before the law; the availability of opportunities for representation in all areas and functions of the society at large. Other indicators could be: preservation of heritage through traditional ways; preservation of value systems handed down through generations; and respect for their cultural identity and projection of unsung heroes.

✓ **Freedom from forced evacuation, dislocation and displacement**

Many internal refugees are members of the indigenous groups in the country for they live in the forests and mountains that are falling victim to the frenetic development program of the Ramos government. In many instances, what has been discussed above regarding internal refugees is also relevant to the situation of indigenous peoples. Hence, the indicators would be the same, in particular those that pertain to the right to voluntary and safe return to original communities. In instances where they cannot be returned, they should be relocated to areas that are closely akin to their former habitats, since of all peoples, it is the indigenous peoples who are

closest to nature—land, water and sky are intrinsic to their world and their very existence.

✓ **Right to own, manage, protect, develop and defend ancestral domains**

The central issue of ancestral domain in the struggle of the indigenous peoples has been passionately articulated throughout the first phase of this project. With the advent of several development projects that intrude upon lands and preserves known as the ancestral domain of indigenous peoples, this particular issue has become crucial to the survival of these peoples. Some indicators include: the recognition of ancestral domains as defined by the various indigenous communities; self-governed ancestral domains and protected domains.

✓ **Right to conservation, protection and improvement of their environment**

Linked with the above right is this particular right that is also closely linked with environmental concerns. Very often, indigenous ways of relating to the environment draw strong reactions from non-indigenous communities—positive when these are perceived to preserve the environment, negative when these are perceived to destroy the environment (e.g., slash-and-burn methods). Indicators suggested are: availability of sources of



subsistence and freedom to practice land conservation traditions.

✓ **Right to participate in the process of decision-making in all levels of government**

Most often, if not all the time, indigenous peoples are not given opportunities to participate in decision-making processes, especially in areas or issues that affect them directly. This right is of crucial importance to indigenous peoples, especially since there have been many decisions made on the national level that have threatened their very existence (e.g., the clearing of forests for plantations, dams, mining operations, etc.) and, hence, their identity as a people.

Indicators suggested are: **representation in all levels of government and budget allocations for needs.**

✓ **Right to a democratic government**

The concept of "democratic" from the indigenous people's point of view has to be further studied to come up with an indicator of democratic government that accords with their own needs and experience. Based on the sharing with local groups, a village headman usually is chosen to be "head" of any particular indigenous community. Elders in the community help him govern his usually small community, settle differences, pass judgment on matters that are within the purview of his powers. People are consulted,

decisions communally approved. Fleshing out this right requires studying these traditions of the indigenous people.

✓ **Right to form alliances and linkages among themselves within the State and with other indigenous peoples in both national and international communities**

This right strengthens and empowers the many indigenous groups that still exist in the world, in their efforts to preserve life ways that are more interconnected with the natural world than the lifestyles of those of us who have been heavily influenced by Western culture and the Western process of modernization.

Indicators include: **existence of alliances and linkages and freedom to link up with other indigenous peoples; continued use of own systems of governance and justice, provided they do not go against international human rights standards.**

✓ **Right to access to funds and a guarantee of economic and technical assistance from the State for their upliftment**

With a big chunk of the national budget going to military expenditures, debt repayments and infrastructure for big business, and less and less to social services and social reform, the realization of this right remains far in the distance. More so now, when government initiatives are geared towards



meeting the needs not of marginalized peoples but of those growing sectors of society that are deemed "globally competitive"—in other words, those that are already more developed and have more access to government resources.

Proposed indicator is **availability of funds and level of economic and technical assistance from the State.**

#### ✓ **Right to recognition as indigenous peoples**

Although there are government agencies in charge of the welfare of indigenous peoples under the offices for southern and northern cultural communities, they appear to be token measures of government concern and do not really address the basic problems of indigenous peoples. It is in this light that there were very strong suggestions for a National Day, National Week or even National Month for Indigenous Peoples. One indicator for this right could be the enactment of legislation to set such recognition days in the national calendar.

## **IV. Right to Work**

### **Prevailing International Standards**

The UDHR contains the following articles pertinent to the right to work: Art. 23, 1 - "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment"; Art. 23, 2-4 - regarding equal pay, just and favorable remuneration and freedom to form trade unions; Art. 24 - which recognizes the right to leisure, including "reasonable limitation of working hours."

The ICESCR devotes four articles to labor: Art. 6, the right to work; Art. 7, the right to just and favorable conditions of work; Art. 8, the right to form trade unions; and Art. 9, the right to social security.

The Bangkok NGO Declaration points out in Art. 14 that "... human rights that are taken for granted in the civil society are ignored within the factory and the workplace..." Of course, the International Labour Organization (ILO), which came into existence before the United Nations, has been monitoring labor rights and trade union rights since its inception in 1919 and has a long list of indicators. However, ILO standards



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cover only a portion of the entire right to work, and can be critiqued from the rights' point of view.

### **Articulated Rights and Possible Indicators**

While two core rights were proposed in the Working Group on the Right to Work, namely: the right to work under just and favorable conditions and the freedom of association, in the regional consultations and the national conference, several other rights were also articulated.

#### **✓ Right to work in just and favorable conditions**

This right includes safety from hazards, adequate ventilation, proper lighting, provision of safety gears and equipment. It also includes security of tenure. Hence, some of the indicators for this particular right can be divided into: (a) security of tenure, (b) fair wages, (c) safe working conditions and (d) benefits.

The first, security of tenure, could have the following indicators: freedom from intervention of politicians, freedom from illegal retrenchment, freedom from forced leave and active monitoring of implementation of fair wages and benefits to workers and prosecution of violations. A fair wage uses a living wage as point of reference rather than the minimum wage. An indicator for this aspect is wage adjustment in times of

inflation. Indicators for safe working conditions are: provision for safety gears and equipment, proper lighting and adequate ventilation, and availability of medical workers and medicine in work sites. Indicators of benefits include: social security such as retrenchment and/or separation pay and hazard pay, availability of leaves (maternity, paternity, sick, vacation and emergency), clothing allowance and profit-sharing schemes.

#### **✓ Right against discrimination**

This right covers discrimination based on age, gender, belief and ethnicity. In view of the growing numbers of women in the labor force, freedom from sexual harassment and discrimination was repeatedly stressed.

Indicators include: the same compensation for same work and the same number of working hours, and the same promotion procedures for all, regardless of gender, social status and civil status.

#### **✓ Right to work in foreign lands**

In connection with this right, the right to migrate (Cf. ICCPR art. 12) was articulated here too. Also included is the right to equal protection of the law for workers in host countries, a right deeply needed in nations with large contingents of overseas Filipino workers like Saudi Arabia. The articulation of this right is part of the offshoot of nationwide protests over the cases of Flor Contem-



placion and Sarah Balabagan, which drew international attention.

One main indicator for this right is availability of work benefits given workers of host country to migrant workers.

In this connection, an international covenant for migrant workers has been drawn up, but it still needs quite a large number of signatories before it can come into effect. Understandably, countries that have a large migrant worker population are hesitant to sign up. The Philippines was one of the first signatories, because it stands to gain much. Latest figures show that the exodus of Filipino workers abroad shows no sign of letting up, although the traditional job markets for OCWs, especially those in the Middle East, are shrinking.

#### ✓ Right to rest and recreation

This right came out in the regional consultations, but there was not much discussion on it. It was noted that given the widespread poverty in the country, rest and recreation is seen, not as a necessity, but as a luxury. Especially affected are women, who carry a double or even triple burden.

#### ✓ Right to profit-sharing

This right is relevant to those who work in factories companies and other similar structured situations involved in profit-making. One indicator would be the presence

of profit-sharing schemes based on the net profits of the enterprise and systems that generate profit-sharing plans.

#### ✓ Right to hazard pay

Industries that have high risk factors—for the health, well-being and lives of workers (e.g. mining and construction)—should provide hazard pay benefits. The presence and implementation of hazard pay, commensurate to the degree of risk faced by the workers, could be a sufficient indicator.

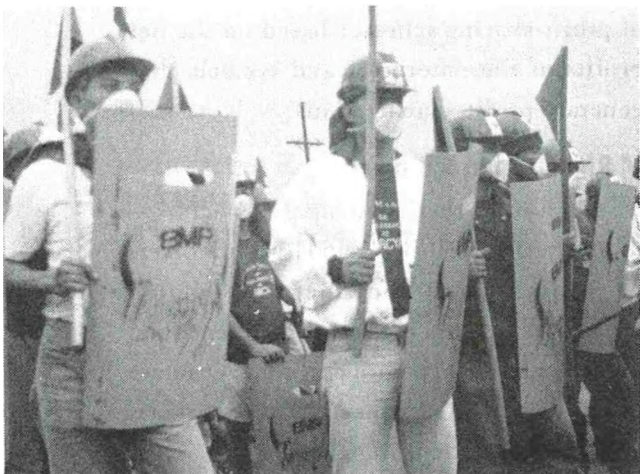
#### ✓ Right of spouse to economic compensation for domestic activities

This particular right sparked spirited discussion since it touches on an area that many participants feel is properly part of husband-wife relations. Some questions raised were: what should be the basis for such economic compensation? Is there a monetary tag for domestic chores that are willingly undertaken? Will the compensation be similar to what household help receive? What is the underlying argument for such a right?

#### ✓ Freedom of association

While this particular right, which is considered a core right, is recognized under Philippine law, the many circumventions that happen make a mockery of such freedom. The right to self-organization was emphatically articulated in relation to this freedom. Indicators in the form of sanctions for the





following “anomalies” were strongly recommended: labor-only contracting, union-free policy, sweetheart contracts and yellow unions. While the removal of these anomalies may not necessarily improve wages or working conditions, this would give workers stronger bargaining power in negotiating for the realization of other labor rights.

#### ✓ Other Rights

Other rights articulated include *the rights of sectors not covered by the current Philippine Labor Code, freedom from unjust taxation, the right not to work, and the right to seek work.*

In theory, all sectors of labor are covered by the Labor Code. However, there is a need for a thorough study of this law to see if there are any gaps.

The right to be free from unjust taxation proceeds from a major critique of the taxation

programme being pursued by the government. In the country's tax structure, the middle- and lower-income groups, particularly fixed wage-earners, carry the burden of paying taxes, since the very wealthy are able to use a variety of means, including manipulating their records, to get away from paying large taxes.

It was observed that there is no articulated right as the right not to work. However, it was thought necessary to express this right in conditions of forced labor. On the other hand, the right to seek work was articulated in defense of those who opt to work overseas owing to the lack of work opportunities within the country. Like the previous right not to work, the initial reaction was one of amusement until the underlying reason was brought out.

## V. Education Rights

### Prevailing Education Standards

The UDHR of 1948 states in Art. 26, 1: “Everyone has the right to education...”; in Art. 26, 2: “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms...” This is further detailed in the ICESCR of 1966, which states in Art. 13, 1: “The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full



development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms." The rest of this article elaborates on how States Parties shall realize this right. The Philippine 1987 Constitution incorporates the right to education in Art. 13 "*Social Justice and Human Rights*." As in health, the Constitution not only recognizes this right but "also mandates the State to undertake specific programs for realizing it." <sup>6</sup>

In the Bangkok 1993 NGO Declaration, human rights education and training are mentioned in #11: "If we wish to promote democracy and respect for human rights, we must develop comprehensive human rights education and training in both governmental and non-governmental programmes, in and out-of-school."



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### Articulated Rights and Indicators

#### ✓ Right to free access to basic education [and accessible education opportunities]

The proliferation of privately-run pre-schools, seemingly a positive development, may indicate the opposite—a possible violation of the right to education of Filipinos. The government has allowed so many pre-schools to function with no control whatsoever on the fees that they charge, resulting in most, if not all, charging exorbitant rates. By doing so, the State may be reneging from its responsibility to provide schools for early learning, especially for the poor majority of the population.

This right, as reformulated (shown in the bracketed portions), points to a much wider problem—the lack of free and equal access to opportunities for basic and secondary education, particularly in areas outside the highly urbanized centers. Poor Filipinos also have little or no access to opportunities for non-formal education, which can substitute for the deficiencies of the formal educational system. Still less do they have access to increasingly costly higher education, which remains largely in the hands of the private sector.

The indicators proposed for this right include: (a) free and equal access to basic education; (b) availability of free basic education; (c) availability and affordability



of higher education; (d) provision and availability of structures for special education; (e) literacy rate; (f) functional literacy; (g) adequate school facilities; (h) an elementary school in each barangay; (I) availability of books, free of charge.

### ✓ Right to quality education

Oftentimes, even in the metropolitan cities like Manila and Cebu, it is heard that the "quality of education has gone down." Discussions in the Working Group on Education, which included teachers from the University of the Philippines Integrated School (UPIS), did not produce a satisfactory definition of what "quality education" is. During the discussions, several aspects were tackled, among them: the training of the teacher, the education environment, how the Filipino mind works, educational structures, basic education, culture and intelligence.

In teacher training, it was pointed out that aside from the formal training that is required, the teacher must be grounded in the experience of the community in which he or she is involved.

The educational environment can be seen from both the informal as well as the formal setting. The training of teachers for each setting will be different. The demands of formal institutions are different from the demands of community schools, which have different needs. In formal institutions, the

administration, and not only the teaching staff, must be aware of and open to broader societal realities. Also, these schools have to move away from Western educational models and be grounded not only in Filipino but also Asian cultures and values.

The way the classroom is structured is still another point to consider. The UPIS, for example, has experimented with doing away with the highly compartmentalized teaching of branches of knowledge and replacing these with clustering of similar fields of knowledge as well as integrating activities for a more holistic approach. In this way, the quality of education is expected to be enhanced.

Filipinos are known to be a creative, inventive and intuitive people. This way of looking at the Filipino has not been much explored in connection with what types of educational models would be relevant to the Filipino. How can these characteristics be further enhanced as well as integrated with the logical, scientific training that has so far been the model in education?

Basic education ( pre-school, elementary and secondary levels) is another factor to consider. A Back to Basics approach is suggested with a more wholistic approach to education, especially for levels until Grade 2. This has repercussions on the type of teacher training that is needed. The question also arises regarding how this can be accomplished



in a multi-graded school where there is only one teacher handling the classes, in some cases not even for a whole schoolweek but for three days only. In such a situation, what kind of education would these students then receive?

The indigenization of culture in the curriculum was also discussed with the teachers of UPIS. This ties up with the suggestion of getting away from the Western models that have so far dominated the Philippine formal educational system. Some implications would be in the change of language, the preparation of entirely new modules as well as new methods of teaching, changes in content and style of teaching. On a broader scale, there is too the integration of subjects, given today's global culture, where changes in all levels and in all aspects are accelerating.

A last component has to do with intelligence. At least three types of intelligence were mentioned: practical, or the ability to solve problems in the workplace without necessarily having gone through formal schooling; multiple intelligence, which takes into account the artistic aspects as well as the ability to construct one's own meanings out of everyday experiences; and cooperative, when learning is done together with others.

All these have to be taken into consideration when discussing what would be the components of "quality education."

Nevertheless, it was emphasized that the mode of teaching determines the "quality" of education. The medium of instruction, too, affects the quality of the learning process. According to the UPIS teachers, the use of Filipino as a medium of instruction has positively affected the quality of education in that school.

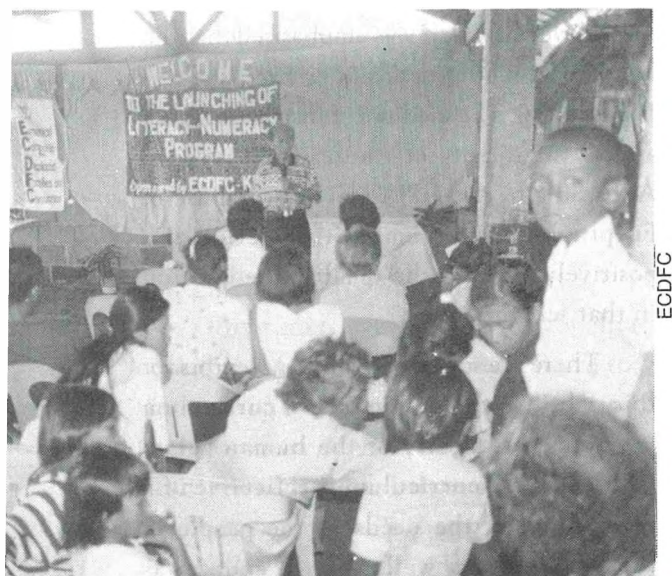
There are several possible indicators for this right: (1) the public school curriculum promotes the dignity of the human being; (2) the course curriculum is reflective of a recognition of the needs of the people in the community as well as in the country as a whole; (3) class size - number of children per class; (4) teachers with good basic training and grounding in Philippine realities; (5) appropriate language of instruction; and (6) feedback and evaluation instruments in formal and non-formal settings.

#### ✓ Right to culturally relevant education

This right is directed towards preserving the various cultures that exist in the Philippines, especially those of the lumads and Moros in Mindanao and the Igorots in the Cordilleras. It also pertains to greater sensitivity towards local cultures—language/dialect, customs, beliefs—and how these can be transmitted to future generations.

Discussions on this right brought up the term "mass-oriented, nationalist, pro-Filipino,





scientific and gender-sensitive education." It was recommended that this term be defined on the basis of concrete realities.

Some indicators for this right are: (1) recognition of indigenous peoples and Moro peoples' distinctive education processes; (2) relevant curriculum content which is reflective of the history of the people in the community and the current situation of the country; (3) gender-sensitive curriculum; (4) human rights education at all levels; (5) implementation of support structures for culturally relevant education; (6) utilization of popular forms and indigenous practices relevant to human rights education and the learning process; and (7) local language as the first medium of instruction.

✓ **Right of students and parents, teachers and non-academic personnel as well as administrators, to participate in decision-making processes**

Students are recipients of, and participants in, the education process, and parents provide the financial support for their education. Their right to participate in decision-making processes is important, especially now that education is increasingly commercialized. It is often the case that school administrators make unilateral decisions on the curriculum of study and on tuition fee rates, without proper consultation with those affected.

Some indicators are: (1) participation of all involved in the formal learning process in the governance of the education bureaucracy; (2) democratic participation in planning, implementation and evaluation; and (3) academic freedom.

## VI. Land and Peasants

### Prevailing International Standards

In the instruments of the International Bill of Human Rights, there is no direct mention of the right to land and peasant rights. The closest right to this included in the UDHR is the right to private property in Art. 17. In the ICESCR, it is presumed to be subsumed in Art. 1 on the right to self-determination.

The Bangkok NGO Declaration has several sections that have relevance to land



and peasants, such as: #5 on sustainable development - "... the natural environment must be protected as part and parcel of human rights... Maldevelopment leads to increasing poverty, income disparities, dispossession and deprivation, including land and resource holdings, environmental degradation..."; #7 - "...deep concern over the increasing militarization throughout the region and the diversion of resources for this purpose"; and #12 on indigenous peoples - "In many parts of the region, their right to land and other rights are not respected. Among the consequences are the expropriation and despoliation of their lands..."

### **Articulated Rights and Possible Indicators**

#### **✓ Right to own land**



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During discussions in the regional consultations, land was defined as including not only the land (=yuta), but also stones (=bato), houses (=bahay), rivers (=sapa), bamboo (=kawayan) and everything else that is there (=tanang na na-a diha).

This right was seen from several angles: (1) that of the peasant-lowland farmer; (2) that of peasant-lowland lumad; (3) that of highland farmer-peasant (mountains, forests); and (4) that of indigenous peoples - lowland and high, aside from the urban poor and other marginalized groups in Philippine society.

Also considered were the many aspects of land—social, cultural, economic and political—as well as the method or manner of acquiring land. The term "land for the landless" drew comments, since if there were no land to till, how could land be given. On the other hand, there are those who have the means to acquire land but do not till it.

There were various forms of ownership discussed. Aside from ownership as expressed in individual title covered by the Cadastral Act of 1902, there is also the communal ownership of the land practiced by several indigenous tribes as well as the concept of non-ownership (because we cannot "own" something which will outlast us - Macliing Dulag, 1979) and stewardship, held by groups in the north.



From the lumads' point of view, those who have no property of their own should have land to till. This is a right that can be presented to government. With more and more land being appropriated for subdivisions, golf courses, eco-tourism projects, industrial zones and the like, land which could be given to those who have no land, is no longer available or made available.

Many of those who need land are poor peasants or farmers. However, making a living on the land has become less and less sustainable. Many factors contribute to this: (1) the uneducated status of tillers of the soil; (2) absence or lack of knowledge in using alternative ways of increasing productivity, (3) the lack of transportation facilities needed to bring produce to the market; (4) the lack of capital to buy farm implements and seeds/plants etc. for production needs; (5) the absence of technical/technological know-how; (6) absence or lack of alternative measures to ensure self-sufficiency.

Rural development remains a main issue in Philippine society. It is in understanding the problems related to this that solutions to the problems of indigenous groups, peasants and farmers can be drawn up.

Proposed indicators include: (1) **presence of support services (farm implements, transportation, credit facilities and training);**

(2) **food sustainability;** and (3) **self-sufficiency.**

#### ✓ **Right to ancestral domain**

The issue of ancestral domain remains contentious. Though the concept is common in Mindanao, there are different views on it in the customary laws of the more than 22 tribes on the island. Thus, this concept needs to be grounded in the customary law which determines the disposition of land in a particular place. For example, what is customary for Iranons may not be so for B'laans.

One of the major factors that gave rise to the present confusion regarding land and land ownership in the Philippines, particularly in the ancestral domains of indigenous peoples, was the Cadastral Act of 1902 under American colonial rule, which required owners of land to acquire titles for these. The indigenous peoples then living on the land that had been handed down to them through several generations either (a) did not know of this Act; (b) did not understand it; (c) did not follow it because of a different concept of land, or (d) were not informed at all about it.

The signing into law of the Comprehensive Agrarian Reform Program or CARP further worsened the situation. Since the indigenous peoples did not have any titles, lands that had hitherto been considered to be their communal property or had been tilled by them for generations were taken away.

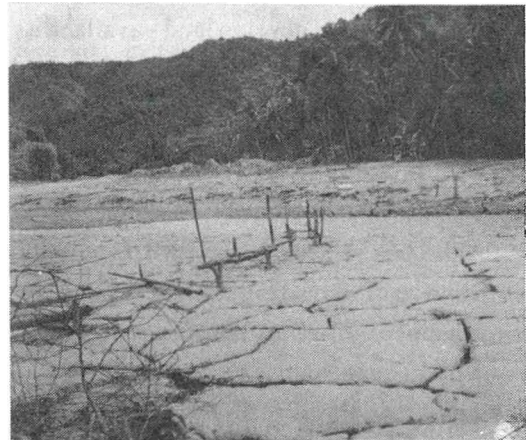


Indicators for this right can be drawn from Convention 169 of the International Labor Organization, which recognizes the indigenous peoples' rights to land. Countries such as the Philippines which have assented to this Convention need to pass laws recognizing such rights, including the right to self-governance which is intimately linked to land.

#### ✓ Right to territory

Among indigenous peoples, land cannot be owned by an individual or titled to an individual. For them, land has no end because the world has no end. Territory comprises not only the land on which they live and till, but also the practices that revolve around it. Culture and self-governance are tied to the land. Lumads also have sacred grounds which they expect others to respect. Furthermore, this right is not exclusivist for it is governed by the customary law of the tribe. Because there are already others (Moros, Christians, etc. ) who live on the land, lumads concede that these others, too, have a right to derive life and livelihood from the land.

Indicators for this right, such as legal measures and mechanisms, will therefore have to be drawn from customary laws of the different tribes in different areas and based on recognition of territorial jurisdiction of the tribes affected.



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#### ✓ Right to property

Right to own all resources of private property, including measures protecting such resources.

#### ✓ Right to land use

Five previously articulated rights were integrated into this right: right to till land, right to own and develop land, right to benefit from the produce of the land, right to equitable distribution of resources, and right to adequate food supply.

Indicators for each of these rights may be as follows:

- right to land use - availability of land and measures that protect the user;
- right to till land - availability of land to till and access to, availability and affordability of support structures for tilling;



- right to own and develop land - availability of land and access to, availability and affordability of land;
- right to benefit from the produce of the land - equal distribution of produce:

The last two rights—right to equitable distribution of resources and right to adequate food supply—have indicators articulated elsewhere.

Since peasants' rights were included in the discussions on the right to land, there were additional rights articulated:

✓ **Right to sustainable agricultural development**

This right is described with terms that can also serve as indicators: equitable, economically viable, environment-friendly, culturally acceptable, democratically acceptable and ethnicity-conscious.

✓ **Right to access to agricultural subsidies and support services**

This includes right to protection against usury and other related practices. Indicators include: availability of capital, availability of market, access and affordability of farm inputs and equipment, availability of post-harvest facilities and farm-to-market infrastructures, and incentives for increased productivity (e.g. training, technology transfer, seminars).

✓ **Right to just remuneration for agricultural workers**

Agricultural workers' needs have to be addressed since traditionally, there has been less attention given to workers in the agricultural sector. Indicators proposed are: reasonable and decent wages and implementation of benefits under the law (social security). These indicators just show the tip of the iceberg where the situation of agricultural workers is concerned.

✓ **Right to form associations, cooperatives and other forms of collectives**

This right arose from the expressed need of peasants for reliable markets for their products and additional sources of income, and of agricultural workers to social security benefits (such as the SSS).

## **VII. Adequate Standards of Living**

### **Prevailing International Standards**

In its preamble, the UDHR, echoing the stirring speech of US President Franklin D. Roosevelt on the Four Freedoms, proclaims "freedom from fear and want" to be among the highest aspirations of the common people. In Art. 25, the second part of this freedom is spelled out in the "right to a standard of living adequate for the health and well-being of persons, and special assistance to mothers and children." The preamble of the ICESCR also



PHIL RIGHTS



upholds the same freedom and, in Art. 11, articulates it as the "right of everyone to an adequate standard of living; fundamental right of everyone to be free from hunger - production of food as well as equitable distribution of world food supplies."

The Declaration on the Right to Development, in Art. 8, 1 calls on "States to undertake at national level, all measures for the realization of right to development and shall ensure inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and fair distribution of income."

### **Articulated Rights and Possible Indicators**

#### **✓ Right to food**

This includes the right to food security and food sufficiency as well as the right to proper nutrition. Proposed indicators for the

latter include: balanced nutrition, more diversity in food products, development of agricultural land, control of chemical practices and pesticides, and the adoption of a government policy to use chemical-free seeds. On the other hand, proposed indicators for the right to food security and food sufficiency are: allotment of a portion of land for food requirements, ready access to food sources, availability of staple food and other food sources, and agricultural self-sufficiency.

#### **✓ Right to clothing**

This right may not seem as urgent as the right to food and housing, considering the warm climate of the country and the absence of extremes in weather temperatures. Certain problems related to the textile industry were brought out in the discussion of this right. For example, there should be supervision over relief items (which usually include clothing) from the First World—oftentimes, these items are diverted to the market and sold for a profit when these should be given directly to the intended beneficiaries. Another aspect is the pricing of textiles—either clothes or clothing material. The imposition of price controls on textiles was suggested. It was in light of this that the following indicators were proposed: (1) government regulation of relief goods coming from the First World and (2) government monitoring of textiles and the textile industry.



### ✓ Right to housing [right to socialized housing]

The rash of demolitions of slum communities in the urban areas to give way to commercial and tourism infrastructure and the displacements arising from similar incidents in the countryside have brought the Philippines into international limelight regarding this right. The lack of low-cost housing is also another problem related to this right.

Some indicators could be: government provision for socialized housing with amortization based on minimum wage levels and government provision of relocation sites after consultation with affected communities and in areas where suitable employment is available.

In addition to the above, these other rights were articulated: right to own house and lot, right to basic services, with priority

to health, education and transportation and communication, right to rest and recreation, right to a clean and safe environment, and right to be secure in one's home.

## VIII. Cultural Rights

### Prevailing International Standards

The UDHR has Art. 27, which articulates the "right to freely participate in the cultural life of the community on the right to protection of scientific, literary or artistic output." ICESCR has Art. 15, which states the "right to take part in cultural life to enjoy benefits of scientific progress and its application to benefit from protection of creative output conservation, development and diffusion of science and culture." The Bangkok NGO Declaration has Art. 5 "... the need for balanced development, bearing in mind... integrated approaches on civil, political, economic, social and cultural rights... particular attention must be paid to women, children, rural people, urban poor, minorities and indigenous groups..." ; and Art. 12, "Indigenous peoples... are denied the specific cultural identity and entitlements to protection under the relevant international human rights instruments..."

### Articulated Rights and Possible Indicators

The general context of discussion of both rights and indicators in this section shows a







bias for the cultures of ethnic minorities over and above the culture of the lowland and urbanized Filipinos who have assimilated Western (mostly American) influences in their lifestyles. For these ethno-linguistic groups, their claims to ancestral land, their identity as distinct cultural groups, their concept of governance and their belief systems, among others, determine their cultural rights.

#### ✓ **Right to cultural identity**

The indicator proposed is “measures to protect cultural identity,” with this added feature, “and enactment and enforcement of laws to ensure cultural heritage.” This indicator highlights the concern over the gradual disappearance of distinct cultural patterns and practices that indigenous groups have nurtured through the generations.

#### ✓ **Right to cultural preservation**

The proposed indicator—measures to preserve cultural areas, artifacts and similar

items and enactment and enforcement of laws to preserve cultural heritage—strengthens the concern expressed in the first right above.

#### ✓ **Right to dignity** [freedom from discrimination]

Years of government neglect and abuse have brought large numbers of indigenous peoples to such a desperate state that members of tribal groups begging in the streets of Metro Manila have become a common sight. Thus, the image of these people, who once were self-reliant and possessed their own distinct culture, is becoming associated with squalor and mendicancy. Under such conditions, their right to dignity has been violated.

Participants in the national consultation expressed preference for “freedom from discrimination” as the articulation of this right. Indicators include **enforcement of laws and freedom from discrimination measures.**

#### ✓ **Right to beliefs**

There was a proposal to change this to right to ancestral domain. However, we have retained the original articulation to distinguish this from the right to ancestral domain found in other sections. An indicator is **measures protecting freedom of belief.**

#### ✓ **Right to religion**

Given the diverse religious beliefs of the different non-Christian and non-Muslim groups that we have in the country, and considering that these beliefs are intertwined



with and permeate other aspects of the cultural matrix (e.g. for tribes living around the Mt. Apo area - death is nothing but going back to their sacred grounds in Mt. Apo, or their concepts of right/wrong, just/unjust may be different), then there is a need to protect such religious beliefs, with laws/ordinances, if needed. Also, the Christian and Muslim populations in Philippine society need to be educated regarding such practices, to encourage respect for these beliefs and the people who uphold them.

#### ✓ Right to cultural diversity

Covered by this right are absence of war and any armed conflict and respect for cultural diversity, which includes respect for religious beliefs, the absence of prejudices and derogatory acts, and genuine empowerment and development of Muslim and indigenous peoples, particularly women. Indicators could be: (1) peaceful coexistence and (2) respect for cultural diversity.

Aside from the above, other rights were articulated, such as:

- the right to artistic expression - movies should give due respect to particular cultural values (cited was the movie *Halimuyak ng Babae*, which was deemed offensive to *Bicolanas*). There was a question on how to articulate freedom from TV commercials that are offensive to sensibilities of viewers.

- the right to access to relevant and enriching cultural heritage - people in rural areas have little or no access to museums, good quality films, etc.

## IX. Environment Rights

### Prevailing International Standards

The rise of rights related to the environment came after the main international human rights instruments were formulated. The International Covenant on Economic, Social and Cultural Rights has only this general reference to what would eventually become a third generation of human rights. Art. 1 #2 states that: "All peoples may, for



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their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation... In no case may a people be deprived of its own means of subsistence."

International standards with regard to the environment are amplified in the Rio Declaration on Environment and Development (1992), approved at the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, in which the Philippines was an active participant. This declaration contains 27 Principles which set standards for relations between human beings and the environment. AGENDA 21, which also arose out of the same conference, is a blueprint for action, against which the conduct of assenting governments can be monitored.

The Bangkok NGO Declaration has at least two sections that deal with environment from the rights' perspective. These are #5 on sustainable development: "... the natural environment must be protected as part and parcel of human rights... Maldevelopment leads to increasing poverty, income disparities, dispossession and deprivation, including land and resource holdings, environmental degradation..." and #12 on indigenous peoples: "In many parts of the region, their right to land and other rights are not respected. Among

the consequences are the expropriation and despoliation of their lands..."

### **Articulated Rights and Possible indicators**

#### **✓ Right to a balanced environment [Right to balanced ecosystem]**

The key word in this right is "balanced." It expresses the concern over the abuse and misuse of the ecosystem in our country today, not to mention the rest of the Third World, where the population either places too much pressure on existing resources or where natural resources are destroyed to give way to profit-making schemes such as commercial complexes or tourism-related projects like golf courses.

Indicators include: (1) existence of biodiversity in each ecosystem; (2) intact food chain; (3) linkage to right to life; (4) rich harvest of farms; and (5) safe methods of utilizing natural resources, especially water.

#### **✓ Right to clean air [and potable source of water, and house space]**

With increasing pollution of air, land and sea, especially in industrialized sections of the country and in the metropolitan areas led by Manila, Cebu and Davao, there is a growing awareness of the gravity of the environmental degradation that is going on. The very air we breathe, the water we drink, are now filled with toxins that are slowly



killing us. The proliferation of cars in the megacities not only has resulted in monstrous traffic jams but in alarming levels of pollution. The influx of industries and growth of slum areas (some of which are built on waterways) have put a strain on potable sources of water.

Proposed indicators are: (1) reduction in the no. of cars on the streets; (2) less use of gasoline; (3) presence/absence of chemicals; (4) non-fuel-consuming transportation system; (5) development of other sources of energy; and (6) use of organic/natural/safe methods, especially in the disposal system/recycling,<sup>1</sup> and limitations on use of non-biodegradable items.

✓ **Right to protect the environment  
[and ensure the biodiversity of  
the environment]**

A question arose regarding this formulation: Is this a right or a duty? And there was no resolution, probably because it can be looked at in both ways.

Proposed indicators are: (1) existence and implementation of environmental protection laws, including a specific budget for protection of the environment and civilian arrest of violators; and (2) community safeguards, including compensation for damages and penalties for violators. One point raised was that the treatment of toxic materials be done in a manner that has no adverse effects on the environment.

✓ **Right to fully partake  
in the benefits of nature**

Four rights were integrated into this right during the national consultation: right to access to sources of subsistence, right to information, right to compensation due to environmental damage and hazards, and right to equitable distribution of resources. Among the indicators proposed are: (a) equitability in distribution of resources and (b) availability and easy access.

For protection of the sources of subsistence, the extraction of non-renewable resources should be paced with the development of alternative sources. On the other hand, the retrieval and usage of renewable resources should be so paced to allow sufficient replenishment of those resources.

✓ **Right to access to sources  
of subsistence**

A point was raised regarding the clarity of the term. Perhaps what is meant is the right to protect the sources of subsistence.

Indicators proposed are: (1) availability of sources of subsistence and (2) mechanisms of access to such sources.

✓ **Right to information  
[Right to access to information]**

One participant asked: "Does the right to information mean there should be consultation with the people?" At first glance, the question seems superfluous. Yet this is a point



that cannot be overemphasized. Access to information is very much needed, for many remain ignorant about the real situation of our environment, hence, are either apathetic to or unsupportive of campaigns to protect the environment.

Indicators include: (1) availability and affordability of environment-related materials and (2) information campaigns.

Indicators that the community fully participates in protecting the environment include: (a) access to information, (b) continuing research; and (c) a systematic program of education and dissemination of information.

✓ **Right to compensation [due to environmental damage and hazards]**

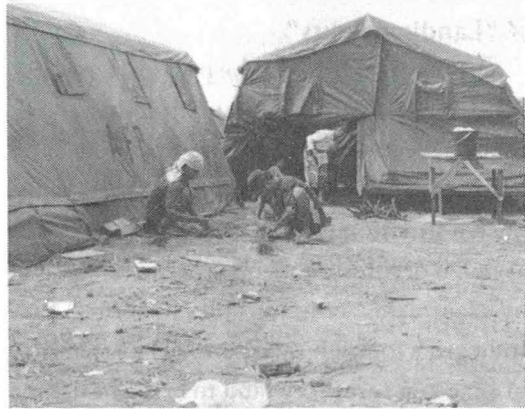
This right was articulated in the light of many cases of environmental damage to a particular area or poisoning of the land due to chemical overdose, which have affected the health, livelihood, safety and lives of large groups of people.

Indicators include: (1) recognition of need for compensation and (2) budget allocations.

✓ **Right to equitable distribution of resources**

Some questions raised with regard to this right were: who or what determines the equitability of distribution? What kind of

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resources are to be equitably distributed? What is equitable?

Indicator: measures for equitable distribution.

## X. Rights of Fisherfolk

### Prevailing International Standards

Whose rights are not articulated directly in any international human rights document. However, rights relevant or applicable to them can be inferred from certain sections of these documents. For example, in Art. 23 of the Universal Declaration of Human Rights, and in Art. 6 of the ICESCR, there is the right to work, which has a direct bearing on their livelihood. The Declaration on the Right to Development has Art. 8 on "equality of opportunity for all in their access to basic resources," which can also be applied to the situation of small fisherfolk.



## Articulated Rights and Possible Indicators

### ✓ "Landing rights"

This term, new to the project team, was defined by fisherfolk as a situation that allows them access to areas on the foreshore land where they can bring in and "park" their boats. Such a situation is increasingly getting scarce as much of foreshore land is being taken over by seaports, commercial harbors, etc. Indicators for such rights are: (1) availability of space on foreshore land to bring in fishing equipment as well as harvest of the seas, and (2) protection of such areas.

### ✓ Right to alternative livelihood

Like the peasants, there have been many cases of fisherfolk and fishing communities being displaced because of the building of seaports as well as the presence of big sea trawlers of multinational fishing companies.



The issue of alternative livelihood is an urgent issue confronting fisherfolk. Indicators include: (1) existence of opportunities for alternative livelihood and (2) free space for initiatives.

During the national consultation, the following rights were added: right to just price of catch, right to social security, right to protect coral reefs, right to defend fishing grounds from foreign poachers, right from environmental degradation (destructive and illegal fishing), right to organize, right to be consulted regarding development projects, and right to socialized credit facilities.

## XI. Rights for Further Study

Development, women's rights and Moro rights are three critical areas of concern not adequately discussed in the working groups and various consultations held during the first phase of this project.

Primarily, it was because early on, we decided not to go deeply into these areas for various reasons.

### ✓ Right to development

Development is a very broad theme that intersects with most, if not all of the economic, social and cultural rights previously mentioned. And it is one that has been very well studied by development NGOs, both theoretically and at the grassroots level.





TFDP-NCR

At the international level, standards that relate to the right to development are incorporated in several human rights instruments and in the declarations of world conferences. These standards can be found in: (1) the Preamble of the Universal Declaration of Human Rights; (2) Art. 1 of the International Covenant on Economic, Social and Cultural Rights, which states that: "All peoples have the right to self-determination [where] they freely ... pursue their economic, social and cultural development; (c) the Declaration on the Right to Development; (d) Agenda 21, the implementing programme of the Rio Declaration on Environment and Development; (e) the Cairo Declaration on Population and Development; and (f) the Copenhagen Declaration on Social Development. The Bangkok NGO Declaration articulates standards that arise out of the Asian experience:

"No country can attain genuine development if it is not truly free, if it has not been able to successfully liberate itself from foreign domination and control."

In the discussions on this right in the Working Group on Development, minimum parameters adapted from those used in the Human Development Report were proposed: democratic participation; sustainability; benefits to the community; equitability (fair distribution of benefits); and social justice. Another parameter—environment-friendly—was proposed, but this was subsumed under sustainability.

Some rights and indicators were drawn, but due to the very limited discussions and research done, these still need to be further studied. Thus, we have decided not to treat them in this paper. We feel that we would be better able to confront this huge area later, when we would have developed greater research capability and rapport with those who have worked long in this field.

### ✓ Women's Rights

While the contents of the UDHR, the ICESCR and the ICCPR have references to the rights of women, it is the Convention on the Elimination of Discrimination against Women (CEDAW) that is the main international human rights instrument for women's rights. All of them cover only a very limited range of women's rights.



Women's rights as human rights have been articulated extensively and forcefully by the various women's groups and organizations that have proliferated since the early 1980s. Mainly as a result of their untiring efforts and effective advocacies, after the Beijing Conference on Women's Rights in September 1995, a wide range of women's rights has gained acceptance at the international level. Respect for these rights can now serve as a yardstick for measuring a State's commitment to the realization of gender equality and the status of women in a particular society.

It must be confessed that the PhilRights network at the moment is very weak in women's organizations; a particular set of circumstances, not the result of policy or bias, has made this so. Thus, we had some difficulty getting together a good mix of representatives of women's groups for our working groups and consultations. This shall certainly be corrected in the next phase of the project.

### ✓ Moro Rights

In contrast to these two, the area of Moro rights has suffered from inadequate articulation. This itself is an indication of the national insensitivity to the problems and issues of the Moro people, the inattention to the Moro voices in our midst, which was broken only when they took up arms to demand their rights as a people.

The question of Moro rights is one that must be approached with great respect for and sensitivity to the cultures and traditions of the different ethno-linguistic groups that constitute the Moro people.

According to members of the Moro Human Rights Center who participated in working group discussions under this project, the foundations of the rights of the Moro people can be found in Shari'a law, decisions of the Organization of Islamic Conferences and Islamic agreements. A problem, however, would arise if there were conflicts between Philippine law and Shari'a law. Philippine laws only recognize those aspects of Shari'a law that touch on personal and family relations. The resource persons from MHRC said that they are now studying the relationship between Philippine laws and Shari'a law from the human rights' point of view. Apart from this, there is the question of territory and accountability, customary law vis-a-vis Shari'a, the jurisdiction of the *ulamahs* vs. that of the Philippine state.

The issue of Moro people's rights has been highlighted by the intensified armed struggle waged by Moro secessionist forces (under the Moro National Liberation Front and the Moro Islamic Liberation Front) from the time of the Marcos dictatorship. In recent years, this has been complicated by the phenomenon of Islamic extremism, which is expressed in: (1)



fundamentalism, which is basically political in nature, and (2) revivalism, which is mainly cultural. Both advocate a "*back to the basics*" movement and a fierce assertion of Islamic identity. How all these various movements have articulated Moro people's rights and which of these rights underlie the struggles waged need to be studied.

## XII. Non-ESC Rights

Rights of governance and the right to peace were also touched on in some of the consultations. Since these do not properly fall under economic, social and cultural rights, they are not discussed in this paper.

However, during the discussions in all the regional consultations and even the working groups, it was pointed out that political will on the part of government and its methods of governance, as well as its sincerity in promoting the people's welfare, have a powerful impact on respect for human rights, and the implementation or non-implementation of human rights-related laws. Hence, the concern for rights of governance, particularly for the right to democratic participation in governance.

## CONCLUSION

The newly articulated and re-articulated rights that are the main output of this project are our initial contribution to an emerging paradigm in human rights work: monitoring

violations of economic, social and cultural rights. Many points have been left hanging; many areas have been barely explored, because of the extremely wide scope under discussion; this we knew from the beginning. But it has been educational for those of us who undertook the project in its first phase for not only has it expanded our perceptions of human rights but has also challenged us to look for new ways of articulating, from the human rights perspective, long felt needs and concerns. It has also been educational for the grassroots workers who shared their rich and diverse experiences with us, for they too have realized that the language of human rights is not abstract or academic but in fact expresses what is at the very core of their lives.

We have cleared a little ground, but much greater work remains to be done. What we hoped to show in this initial phase of the project was that the articulation of rights can be done from the bottom up, deriving them directly from grassroots experiences, and need not rest solely on academic exercises or international conferences. The discovery of meeting points between international human rights standards and the actual conditions of the people affirms the universality of human rights, and provides incontrovertible proof that human rights are reflections of the deepest needs of human beings. □



## ENDNOTES

- 1 Cf. "The Human Rights System in the Philippines," Carlos P. Medina, Jr., Ateneo Human Rights Law Journal. *Makati: Ateneo Human Rights Center. December 1992, pp. 11-45, for a listing of the specific ESC rights enumerated in this constitutional provision.*
2. Terms within brackets are reformulations of the right, done in workshop during the national conference-consultation.
- 3 Underlined terms within brackets are proposed to change the original term that is underlined.
- 4 Most of the data in this section are culled from the UN Fact Sheet No. 20: *Human Rights and Refugees.*
- 5 RPG FOCUS "International Protection for Internally Displaced Persons — Next Steps" by Roberta Cohen, Focus Paper No. 2, January 1994.
- 6 "The Human Rights System in the Philippines", *loc. cit*

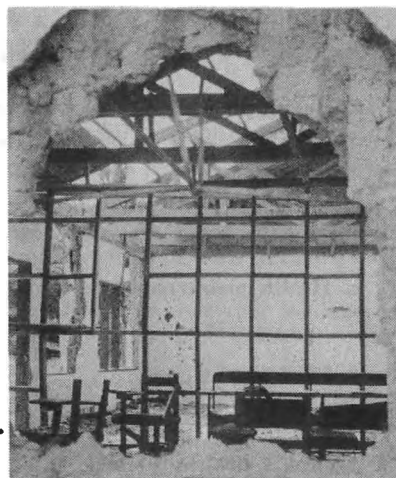


## ESC-Related Glossary

### Introduction

**T**he terms and corresponding proposed definitions that are contained in the following GLOSSARIES are by no means comprehensive nor exhaustive, given the variety of sources and the time frame of the initial phase of the project. We have divided the glossaries according to the areas of concern that emerged during the consultations, which are based on the cluster of rights stated in the concept paper of the project. However, since there are other terms that do not fit into any of the categories, we have placed them under self-explanatory headings (i.e., political, etc.). Further, these glossaries are not meant to critique or replace any existing glossaries in human rights, but rather to enrich, refine or even suggest new terminologies that may be used.

This paper attempts to include not only definitions of terms as appreciated at the grassroots level but also terms relating to economic, social and cultural rights which have emerged and developed from the field.



PHILRIGHTS

### General Terms

#### 1. Human rights

rights that every human being is entitled to enjoy and to have protected, based on the underlying idea that there are fundamental principles that should be respected in the treatment of men, women and children.

\* The contemporary international statement of those rights is the Universal Declaration of Human Rights.

\* a set of guarantees that are necessary for man and woman not only to exist but to live in a manner befitting a rational being.



2. **Universality** human rights are of universal concern and are universal in value (Bangkok NGO Declaration).
3. **Interdependent** each right is related to other rights, and rights cannot be dissociated from each other.
4. **Indivisibility** respect for civil and political rights cannot be divorced from the enjoyment of economic, social and cultural rights.
5. **Indicator** guided measures based on standards, able to indicate performance and change.

## A. Health

1. **Health** a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity (WHO, 1986).
  - a. **Health promotion** infrastructure, government programs, projects and consciousness-raising activities aimed at improving the people's well-being.
  - b. **Health care** direct intervention to help individuals and communities in dealing with health needs in general and not only sickness.
  - c. **Health maintenance** programs, projects and activities to keep people in good healthy condition.
  - d. **Health protection** programs, projects and activities meant to help members of a community to cope with, to lessen the impact of or to prevent sickness and epidemics.
2. **Mentally healthy person** a person who is functional, psychologically and emotionally well; who can distinguish right from wrong, make one's own decisions and assumes responsibility for the consequences.
3. **Arbolaryo** a native medicine person or traditional healer, especially among people in rural areas, who primarily uses herbs, incantations and the calling of spirits to heal sickness, drive away bad spirits, protect against dangers, evils and bad elements.
4. **Babaylan** an indigenous (people) traditional healer who makes use of a complete set of rituals to effect healing or to offer Thanksgiving for healing.



5. **Paramedic** any person who, though not professionally trained as a medical person, undertakes medical procedures within his/her competence.
6. **Social welfare for the aged** a system to sustain a productive life for senior citizens.
7. **Mental health** a state in which a person feels physically well, when thoughts are well organized, when feelings are modulated and when behaviors are coordinated and appropriate, the last culturally defined (WHO).
8. **Primary health care** a community-based concept formulated as a major strategy of the Health-for-All goal of the Alma-Atah Conference in 1978 focusing on health promotion and disease prevention.
9. **Devolution** process whereby erstwhile centralized health services in the Department of Health, are now subject to discretion of local officials and dependent on the income of local government units (LGUs), as stipulated in the Local Government Code.
10. **Disabled** those suffering from restriction or having different abilities in the manner or within the range considered normal for a human being, a condition that is the result of a mental, physical or sensory impairment.
11. **Specially-abled** another term denoting people, especially children, with particular needs.
12. **Balanced nutrition** a combination of necessary nutrients in the body that produces the optimum health benefits.

## **B. Internal Refugees**

- \* **refugee** a person who flees to another state or power to escape danger or persecution, especially if because of armed conflict (international law).
1. **Internal refugees** people forced to flee due to well-founded fears arising from military operations; subset of internally displaced persons.
2. **Internally displaced persons** people forced to flee due to man-made( armed conflicts) or natural disasters.
3. **Relief** material and financial assistance extended to displaced persons which is short-term in nature.



- 4. **Rehabilitation** a biological, psychological, social process to regain previous life and to improve the quality of that life.
  - a. **Relocation** the process of transferring people from one place to another where basic necessities such as housing, water and electricity as well as schools are provided.
- 5. **Displacement** voluntary and involuntary movement of people due to well-founded fears for their lives and due to development projects;
 

the dislocation of persons from their residence for reasons connected to armed conflict (TFDP glossary).
- 6. **Evacuation** abrupt/sudden uprooting of persons, groups and families from their residence to another place because of fear or to escape harm
- 7. **Culture-sensitive** processes that follow cultural mores and traditions of regional or cultural group affected.
- 8. **Indemnification** compensation for economic, psychological, moral and physical damages.
- 9. **Rural/urban migration** movement of people from their countryside abode to the city and vice-versa.
- 10. **Lowlanders** people living in low-lying area, usually in the countryside.

### C. Indigenous Peoples

- 1. **Indigenous people** distinct group of people that originally (native) lived in a particular place with own tradition, economic, political, cultural, beliefs and customary laws living in harmony with their environment /territory.
 

Alternate terms: **Cultural communities**  
**Tribal Filipinos**  
**Cultural minorities**
- 2. **Ancestral land** a world view denoting close and inseparable "relation" with "land" (land defined as everything in the environment, including spirits; relation and responsibility to the next generation);
 

endless abode of all human existence.



3. **Ancestral domain** specific tribal peoples' territory where they exercise collective rights and responsibilities.
4. **"Lumad"** Visayan term for NATIVE/INDIGENOUS TO A PLACE coined in the 1970s.
5. **Katawhanong Lumad** UN- recognized identity of 22 unislamized indigenous peoples in Mindanao.
6. **Settlers** families and individuals coming from Luzon and Visayas who migrated and settled down through the years in Mindanao, facilitated by the government resettlement program.
7. **Majority Filipinos** Christian settlers of Mindanao who comprise the majority of the population now.
8. **Tri-People** the concept of three peoples: Muslims, indigenous peoples and majority Filipinos.
9. **Self-governance** the inalienable right of self-rule, in whatever manner a particular culture dictates ( e.g., no elections for leaders who are chosen after passing certain tests).
10. **Assimilation** process by which an indigenous group is integrated into mainstream society either through natural processes (e.g. intermarriages) or by forced means (e.g. colonization).
11. **Integrationist** state policy imposed on indigenous people's groups, integrating them into the national body politic.
12. **Intact community** a community of any of the indigenous tribes who have retained their culture, including way of life, language, dress, etc.
13. **Katutubo** a Tagalog term that pertains to any of the indigenous tribes.
14. **Kalibugan** a Subanen tribe found in Zamboanga del Sur that was Islamized (the Subanens being an indigenous group).
16. **Reverse discrimination** phenomenon that occurs when an educated member of an indigenous tribe becomes an outcast from his own tribe.
17. **Ethnocide** process by which an indigenous people's identity is forcibly and systematically wiped out.



18. **Clan ownership** when resources are owned by a clan.
19. **Communal ownership** when resources are owned by a community.

#### D. Right to Work

1. **Worker** a person who enters into an agreement to work and receives wages and benefits in return.
2. **Contract-growing** phenomenon arising in plantation agriculture in which growers put in labor and capital and shoulder the risks of failure, while contractor assures purchase of the produce at a set price.
3. **Flexible working schemes** schemes adapted by large business companies to cut down their regular workforce, usually to avoid paying the minimum wage and social security and other work benefits. There are several schemes now used in the Philippine setting:
  - a. **Casualization** the hiring of workers on short-term basis without security of tenure and other benefits.  
  
Other term: "Seasonal hires" (e.g. SM City)
  - b. **Subcontracting** the practice of hiring outside groups of people (usually service companies) to do areas of work that used to be part of the whole company infrastructure (i.e., janitorial services).
  - c. **Contractuals** similar to casualization, except that a contract exists between employer and employee stating length and nature of, as well as compensation for, service rendered.
  - d. **Labor-only** a situation where a company gets a contractor to supply it with below-minimum-wage labor; because management deals only with the contractor, the laborers have no job security and are not entitled to any benefits from the company.
4. **Living wage** amount needed for basic needs such as sufficient and nutritious food, decent housing, education and social services.
  - a. **Real wage** the actual value of workers' minimum pay measured against inflation.



5. Informal sector all those who work but have not entered into any formal contract or are outside the traditional "white-collar/blue collar" structures, including those who work in the following sectors: transport, vendors, sex trade, child labor.
6. "Maintainer" a farmer who does the labor with the landlord providing everything else.
7. Growership a system wherein workers are not paid for their labor by the farm management but instead are given a percentage of the net income of the harvest, thus freeing management of responsibilities over the workers.
8. Double payroll a system wherein the worker signs two kinds of payroll—one for what is actually received and the other for what worker is supposed to receive.
9. "Sweetheart contract" contract between a company union and the company, skewed in favor of the company; not a product of collective bargaining as envisioned by law.
10. Yellow union union organized, controlled and led by management.
11. "Divide and conquer" a system wherein different departments of one main company have different unions, i.e., there is no overall union.
12. "Womanization" of labor the increasing incidence of women in the workplace.
13. Jobless growth artificial economic growth without increasing job opportunities.
14. Illegal retrenchment a practice in which civil service eligibles are shunted to minor positions during reshuffling of government employees.
15. Labor standards wages and other economic benefits the workers are entitled to under the law.
16. Labor relations workers' political rights (e.g. the right to form and join trade unions).
17. Destructive economy production for export instead of production for the people's needs.
18. Manila imperialism perception (in cases justified) that the central government in Manila dictates economic trends, among others.



- 19. 2nd Imperial city                      term given to Cebu City, premier city in Visayas and gateway to and from Mindanao.
- 20. Broiler employment                  fast turnover of constantly new workers.
- 21. GATT                                      General Agreement on Tariffs and Trade.
- 22. WTO                                      World Trade Organization.
- 23. Hazard Pay                            extra pay given to workers for potential risks involved in the workplace.
- 24. OCWs                                    another term for Filipinos working abroad.

## E. Education

- 1. Education                              a dialogical process between learner and teacher, not only in the acquisition of new knowledge, skills and capacities but also in the development of critical thinking and social awareness of present realities and the transformation of experience to effect social change;  
  
a formal and non-formal process involving cognitive and non-cognitive restructuring of present values, attitudes, visions, philosophy in life towards building a humane society;  
  
education is liberative.
- 2. "Martikoles"                          the phenomenon observed especially in rural areas of Mindanao and the Visayas, wherein teachers who have to travel over rough or non-existent roads to reach the schools where they teach, arrive in the area on Monday, begin teaching on Tuesday until Thursday, then prepare to go back to their homes on Friday, giving the schoolchildren only three school days in the week (Martes, Miyerkoles, Huwebes).
- 3. Multigrade                              the phenomenon of several grades (usually Grs. 1 - 4) lumped together under one teacher, due to a dearth of teachers, insufficient budget to hire more teachers or other causes.
- 4. Practical intelligence                the ability to solve problems and be creative even without formal schooling.
- 5. Multiple intelligence                a concept of intelligence that takes into account all facets of a person's life, including cognitive, visual, feeling, perceptive, artistic intuitive, etc.



6. **Multidisciplinary/  
multi-mode** an integrated, holistic approach to education (e.g. UP-Integrated School).
7. **Functional literacy** when a person has all the practical skills necessary to participate in community life.
8. **Indigenization** the making of any process to be culturally relevant and sensitive.
9. **Class guidance counseling** guidance counselor meets one class for one hour, instead of one-on-one counseling.
10. **Public education** formal education in government-supported centers of learning (elementary, high school, state colleges and universities and technical schools).
11. **Private education** formal education in privately-funded schools (elementary to university as well as technical schools).
12. **Cooperative learning** learning together with and in a community.
13. **Quality teaching** when the education process has been meaningful to the learner.
14. **Literacy** knowing how to read and write
15. **Numeracy** knowing how to count
16. **Academic freedom** the right of members of an academic community to determine the content and manner of teaching and to participate in decision-making processes involving the quality of education; also the right to explore and investigate new areas of knowledge without restrictions.
17. **Non-formal education** non-traditional method of education done outside the schools but which is organized and systematic.
18. **Culturally-relevant  
education** education attuned to and directed towards the preservation of the values, norms, beliefs and practices of a people, to ensure that these are transmitted to future generations.
19. **Mass-oriented,  
nationalist, pro-Filipino,  
scientific and  
gender-sensitive education** the real meaning of quality education, according to some grassroots activists.



**F. Land Rights**

1. Land occupation                      literally, the taking over of lands by the farmer-tillers as a form of protest against non-implementation of land reform in their areas.
2. Inalienable lands                      land (including watersheds, foreshore, mountains) reserved for future generations.
3. Public domain                          mineral and forest lands, national parks and reservations as well as all other lands which the government has failed to classify.
4. Ancestral domain                      areas possessed, occupied or claimed to have been possessed or occupied by indigenous cultural communities since time immemorial and includes titled properties, forests, pasture lands, fields, hunting grounds, worshipping areas, burial grounds, bodies of water, mineral resources and airspace. (Taken from House Bill # 428 1988 Congress)
5. Land tenurial arrangement          system of land ownership and use, including the sharing of the land's produce between the farmer who tills the land and the owner.
6. Crop conversion                        shift in land use from production of staple grains to that of cash or export crops.
7. Land use conversion                  system in which land devoted to agricultural production is converted to other uses, e.g. industrial, residential, commercial and tourism.
8. "Frontier" lands                        land which is largely undeveloped, unexplored and untouched by modern technology or development projects.
9. Agricultural land                        land primarily for farming; used for cultivating crops and livestock.
10. Land use                                the enjoyment of the land by occupation or by deriving revenue from it .
12. "Land to the tiller"                  agrarian reform objective that recognizes the right of every Filipino farmer to own the land he tills.

**G. Adequate Standards of Living**

1. Food security                            adequate source and supply of basic foodstuffs for public consumption.
2. Agricultural self-sufficiency              local capability in sustainable production of agricultural products, esp. food products.



- 3. Food sufficiency local capability to be self-sufficient in food needs.
- 4. Demolition the tearing down of residential houses, often erected by individuals on property deemed as not belonging to them, and usually following a court order.
- 5. Socialized housing the provision of housing program and services for all, particularly low-income groups, from public funds.

## H. Environment

- 1. Balanced ecology biodiversified habitat and sustainable ecosystem.
- 2. Biodiversity the existence of several life forms in a single area, whether land or water.
- 3. Environment everything external to an organism.
- 4. Ecology the relation of organisms to habitat, wherein humans are but a part.
- 5. Ecosystem the relationship between all creatures in a designated locality.
- 6. Creation the first activity of God, according to the Bible.
- 7. Integrity of creation the human person is integral to the entire universe, not the focal point.
- 8. Stewardship the responsibility of humans to take care of nature.
- 9. Water piracy the unreasonable taking of fresh and potable water from one locality to fill in the need of another (e.g. Cebu - Bohol).
- 10. Eco-tourism the conversion of land (including CARP land) into tourist spots or retaining such spots for tourism purposes.
- 11. Environmental hygiene maintaining and promoting cleanliness and health in the ecological surroundings.
- 12. Soil infertility for various reasons, inability of soil to produce abundant, bountiful crops, vegetation, etc.
- 13. Sources of subsistence territorial space from which a people primarily obtain their survival and livelihood.



**I. Culture**

- |                       |  |
|-----------------------|--|
| 1. Cultural diversity | a plurality of cultures.   |
| 2. Cultural identity  | distinct attributes that differentiate a group of people or peoples. |
| 3. Alienation process | process of isolation or estrangement (from friends, society, etc.)   |

**J. Fisherfolk**

- |                     |  |
|---------------------|--|
| 1. "Landing rights" | situation wherein fisherfolk have access to places on foreshore land where they can bring in and "park" their boats; such a situation is increasingly getting scarce as much of foreshore land is being taken over by seaports, commercial harbors, etc. |
|---------------------|--|

**K. Development**

- |                |   |
|----------------|---|
| 1. Development | a comprehensive economic, social, cultural and political process which aims at constant improvement of individuals and peoples on the basis of their active, free and meaningful participation in development and the fair distribution of benefits resulting therefrom (UN Declaration on the Right to Development). |
|----------------|---|

The definition should also consider (1) development of environment and of other creations of nature, (2) sustainable development for future generations, (3) gender equality and empowerment, and (4) development and respect for indigenous cultures.

- |                           |   |
|---------------------------|---|
| 2. Development aggression | any economic program, strategy, policy or project that goes against the interests of people who stand to be affected; any act that deprives people of their means of subsistence or destroys their environment or sources of subsistence; in general, strategies based on a "top-down" model of development that encroach on lives of people without their consent and do not recognize people's integrity. |
|---------------------------|---|

Alternate terms: \* rapacious development

\* perverse development

\* violations/abuses arising from the  
implementation of development projects

\* maldevelopment



3. **Self-determination** people's sovereignty, ownership, management and control over their natural wealth and resources.
4. **Genuine development** sustainable development free from foreign domination and control; attainment of national liberation and self-determination of peoples.
5. **"Public starts"** venues for private initiatives towards development, e.g. farm-to-market roads
6. **"Ceboom"** catchphrase meaning the sudden tremendous economic and infrastructure growth of Cebu City
7. **Rio de Janeiro Conference** Earth Summit or United Nations Conference on Environment and Development held in de Janeiro, Brazil from 3 to 14 June 1992. The culmination of a process started by UN General Assembly Resolution 44/228 in December 1989. This conference brought together 179 governments and NGOs to confront the threats to life facing humanity and the planet earth.
8. **Cairo Declaration** United Nations-sponsored International Conference on Population and Development held in Cairo, Egypt in 1994.
9. **Copenhagen Declaration** World Summit for Social Development held in March 11-12, 1995 in Copenhagen, Denmark. A United Nations international conference which brought together Heads of State and Government to discuss pressing global issues and agree on measures intended to address the core issues of poverty alleviation, expansion of productive employment and enhancement of social integration, particularly of the more disadvantaged and marginalized sectors.
10. **Bottom-up approach** referring to a down-top method of doing work; another term for grassroots-experts method (such as the approach used in the ESC Phase 1).
11. **Sustainability** a state in which ecological balance is maintained by avoiding depletion of natural resources; a state that insures the rights of future generations.
12. **Environment-friendly/  
ecologically sound** not harmful to the physical surroundings, conditions, circumstances, to include plant and animal life, in which a person lives.



## L. Moro Rights

1. Moro
 

term which refers to the 13 Muslim ethno-linguistic tribes in Southern Philippines and Palawan, as well as those indigenous peoples and Christian Filipinos who believe in the Moro agenda.

local term for Moor (term given to the Muslims who had conquered the Iberian peninsula in Southwestern Europe in the 16th century); originally derogatory.
2. Madrasah
 

school system within the framework of Islam where both the Koran and Arabic are taught.
3. Sultanate system
 

the political, economic, military and defense structure found in the Islamized areas of Southern Philippines before the arrival of the Spaniards (e.g. Sulu Sultanate).
4. Bates treaty
 

the treaty designed to prevent links between the Moros and Filipino revolutionaries in the last century; it did not recognize any Moro nation.
5. Shari'a
 

the legal system of Islam.
6. Carpenter's Agreement
 

an agreement done under American colonial rule which renounced the Sultanates in southern Philippines.
7. Tripoli Agreement
 

a historical accord forged between the Government of the Republic of the Philippines and the Moro National Liberation Front in 1976 to end the secessionist war in the early seventies where some 50,000 persons were killed (according to unofficial estimates).
8. Jeddah Accord
 

supposed to implement the provisions of the Tripoli Agreement but which was not recognized by the 1987 Philippine Constitution.
9. Autonomy
 

a coalition government at the local level in which power is shared by the three peoples (see Tri-people definition in E. above), with relative independence from the central government.
10. Rido
 

concept of justice where an aggrieved clan exacts justice from a perpetrator clan.
11. Clan conflicts
 

internal tension and struggle within a clan.
12. Inter-clan conflicts
 

opposition and tension among clans.



13. ARMM Autonomous Region of Muslim Mindanao.
14. SPCPD Southern Philippine Council for Peace and Development - the transitional body created by the Manila government to oversee Mindanao. Nur Misuari is head of the Council.
15. Islamic Declaration of Rights/ Islamic Agreements some of the foundations from which rights of the Moro people can be derived (to include Shari'a Law, Organization of Islamic Conferences, etc.).

## M. Political Terms

1. Empowerment the full participation of people in decisions and processes that shape their lives.
2. Federalism the system of autonomous states combined into a federal government.
3. Self-governance growing consciousness among people to participate in decision-making processes that affect their lives;  
process of self-rule, prevalent among peoples (IPs, Moro and others)
4. Autonomy self-governance but within the parameter of national laws.
5. Secession act of complete and formal withdrawal from membership in a political entity, be it government, state, nation.
6. "Bangsa" Moro term used for concept of nationhood.
7. "Blue guards" security groups of sugar estates, political warlords and developers.
8. Political patronage a system in which elective officials dispense favors and privileges to the people who supported his/her election to public office, replacing people's right to good public service with dole-outs; also called "padrino" system.  
  
Other term: "political incest"
10. Political dynasties continuing election/appointment of members of elite families in public offices.



**11. Self-determination**

the right of peoples to define, develop and defend their social, political, economic institutions and objectives and to preserve and progressively enrich their material and non-material culture, independent from the dictates and control of a central authority in which they have little or no representation, but not at the same time necessarily being separate from the rest of the national society unless it is in their best interest to be so.

**12. Electoral education**

systematic education on electoral policies and procedures. ☐

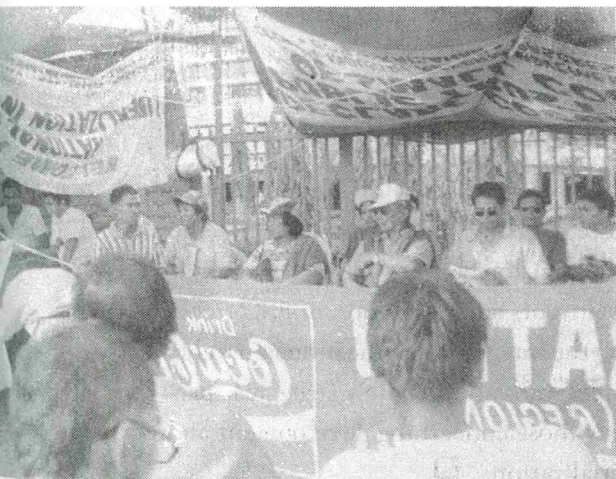


## Notes and Recommendations

*Although many Third World NGOs believe that economic and social rights must figure in human rights work, few have had experience in systematically examining or producing them. Participants recognized that the defense of economic rights poses novel and complex problems. Probably that very complexity has inhibited experimentation with investigating them.*

— Henry J. Steiner

Diverse Partners: NGOs in the Human Rights Movement, 1991



PHIL RIGHTS

The first phase of this project has strengthened the human rights perspective. It has shown very well how deeply human rights operates in the daily lives of our people. One concrete benefit of having adopted a bottom-up approach is that the project did not start with preconceived formulas or readymade concepts, and was thus provided with a vast landscape of grassroots experiences from which to draw its conclusions.

Within this landscape, the project has found particular contexts within which the "progressive realization" of economic, social and cultural rights should be achieved. It sought to develop indicators that are not just observant of the ideal formula or in accord with minimum international standards. Rather, it has tried to let these indicators emerge from the concrete needs articulated by the people themselves.



The entire project was an educational process, both for those who implemented it and those who contributed to it. The PhilRights executive director, in her Welcome Remarks during the National Consultation, said: *"This project did not only blaze its own trail; it also wove its own tapestry. Like a design and like in cross-stitching, in the process, there was a lot of untangling and sewing of the key edges of the project."*

The data gathered and initial indicators arrived at provide the take-off points for the second phase. In this second stage, the project will focus on an intensive evaluation of these indicators, including a comprehensive review of related literature, adoption of appropriate statistical tools, and pre-testing of the research variables or the indicators themselves.

Clusters that were not adequately covered will be given stress. These are the clusters on development, indigenous peoples, women and children.

Parallel with the objectives of this project, human rights education is an indispensable factor towards realizing economic, social and cultural rights. The human rights community as a whole must take on this responsibility, which is now the focus of the present UN Decade on Human Rights Education. The national consultation of this project, for one, specifically addressed PAHRA and non-PAHRA organizations to system-

atically and intensively conduct formal and non-formal educational campaigns and called for appropriate curriculum-building, customized to the needs of those in the grassroots.

In time, as the project unfolds, it should lead to the setting up of an ESC rights monitoring system. The project supports every related effort, considering itself as only one of the many contributions to the promotion of ESC rights.

The Philippines is trying to set a record as a country that is able to achieve economic prosperity with equity. The Ramos government claims it is not only concerned with economic growth but also with social reform. With an ESC rights monitoring system in place, the extent of success or failure in this quest can be measured scientifically.

This project posits that *progressive realization* of ESC rights should be embedded in development goals themselves and should be reflected in the manner of development in every country.

The integration of all human rights, therefore, not only involves removing the artificial division between advocacy of civil-political rights and promotion of ESC rights but also the integration of these human rights principles into the people's struggles, particularly those concerning development and industrialization. □



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## ANNEX A

## Summary of Discussions in the Working Groups on ESC Rights

As submitted in the mid-term report  
to the Philippine-Canada Human  
Resource and Development (PCHRD)

27 MARCH 1996

As of March, eight working groups namely: health, internal refugees, workers, education, women, Moro rights, development and housing rights, have been convened, several of them regularly meeting, to tackle the rights under each cluster based on the framework and objectives of the research.

Unfortunately, the working groups on food and indigenous peoples have not yet been convened. When the project was first implemented in 1994, the working groups on children and environment were the first ones to meet. Both have not yet resumed.

The working groups have been expected to: (1) review lists of rights relevant to their particular cluster; (2) assess existing indicators; (3) come up with a glossary of human rights terms ; (4) look for possible rights peculiar to the experience of third world countries like the Philippines; and finally (5) develop new indicators for monitoring economic, social and cultural rights violations.

A general list of Guide Questions was provided each working group. This list was divided into the following: (a) rights in the cluster; (b) clarification on these rights; (c) determination of state obligations; (d) identification of violations and (e) new indicators.

During their initial meetings (sometimes one on one meetings between PhilRights and the sectoral representative concerned), the



working groups were first briefed on the nature of the research project, especially with the non-PAHRA organizations which had accepted the invitation to help in this undertaking.

Then, several working groups defined the conceptual framework needed in order to view the rights of these sectors. The groups were also enjoined to come up with working definitions of terms commonly used in each group. In addition, the members of the working groups exchanged their own experiences regarding the plight and issues confronting their sectors, especially in relation to human rights.

Most of the working groups discussions have reached the identification of state obligations and violations of the rights under each cluster. The working group on health was able to come up with possible indicators in their cluster.

The following are the highlights of the working groups' discussion divided into the above mentioned topics of the research guide questions.

## **A. Framework/Points to consider**

### **WG on the Right to Work**

- International labor standards differ from the local labor rights but the former affects the latter.
- Considering the presence of various kinds of workers in the Philippines, this WG will focus on the generic rights of workers, treating each subsector differently.

### **WG on the Rights of Internal Refugees**

- Filipinos still suffer from massive displacement but there has been a shift in the main cause of dislocations: from counter-insurgency drives to development projects.

### **WG on the Right to Development**

- This WG agreed that when talking about the right to development, the following factors must be considered: sustainability, gender equality, respect for indigenous cultures, equity, empowerment and people's participation, and development not only of humanity but also of nature and other creations.

### **WG on the Right to Education**

- In this WG, the lead organization, Education Forum, has proposed a "nationalist



agenda for Philippine Education" as a possible framework when discussing rights of students, teachers and other education workers.

### **WG on the Right to Environment (taken from 1994 meeting)**

- The rights to environment should ensure that all ecosystems are in balance; that the environment allows the full growth of each human being as well as ensure inter-generational equity.

### **WG on Moro Rights**

- In the initial discussion so far done in this WG, it was suggested that in coming up with a conceptual framework for the cluster of rights, an insight into the Shari-ah Law of Islam be looked into. A short history of Moro presence in the Philippines was shared by our brother Moros who attended.

### **WG on the Right to Physical and Mental Health**

- The Medical Action Group which heads this WG shared how the World Health Organization (WHO) has led in defining as well as expanding the view of physical and mental health. (see Definition of Terms section) It has helped in moving health thinking beyond a limited biomedical and pathology-based perspective to the more

positive domain of "well-being", radically expanding the scope of health, and by extension, the roles and responsibilities of health professionals and their relationship to the larger society.

Historical perspectives were also shared from the traditional view to the scientific, laboratory, and technology views. The right to health is used in the international human rights context to refer to: (a) the more lengthy and detailed provisions relating to health in the WHO Constitution and in legally binding human rights treaties, and (b) the emphasis on the social and ethical aspects of health care and status.

### **WG on Women's Rights**

- The initial discussion so far in this WG regarding the framework of discussion on women's rights was to make a list of all women's rights in the various international documents already available as well as to study the materials emanating from the September World Conference on Women in Beijing, China.

### **WG on Housing Rights**

- The latest WG to be activated, this group agreed to limit discussions on urban dwellings and expansion of land rights.



## **B. Definition of Terms**

### **WG on Right to Work**

- A worker is a person who enters into an agreement to work and to receive wages in return.

### **WG on Internal Refugees**

- Internal refugees are people forced to flee due to well-founded fears arising from military operations and/or implementation of development projects.
- Internally displaced persons (IDP) has a wider scope; the reasons for displacement may be man-made or natural disasters.

### **WG on the Right to Development**

- While the UN has defined development as "a comprehensive economic, social, cultural and political process which aims at constant improvement of individuals on the basis of active, free, meaningful participation in development and in fair distribution of benefits resulting therefrom", the WG suggested that the following points be considered in trying to define the term: (1) development not only of humanity but of environment and of other creations; (2) sustainable development for the benefit of future generations; (3) gender

equality and empowerment; and (4) development and respect for indigenous cultures.

### **WG on the Right to Health**

- According to the WHO definition, health is "a state of physical, mental and social well-being and not merely the absence of disease." When the WG discussed this, the group realized that there is no such thing as a right to health per se but that this right can be articulated in four aspects: right to health promotion, maintenance, protection and care.

### **WG on Moro Rights**

- A proposed definition for the term "Moro" would refer to "the 13 ethno-linguistic tribes that follow Islam in the Philippines and those Lumad (indigenous) and Christians who believe in the Moro agenda.

## **C. List of Rights**

### **WG on the Right to Work**

- There are two major divisions of labor rights (core labor rights):
  - \* right to work in just and favorable conditions of work
  - \* freedom of association



**WG on Rights of Internal Refugees**

- Based on PAHRA's Philippine Declaration of Human and Peoples' Rights, the rights of internal refugees are the following:
  - \* right to unhampered relief
  - \* right to just indemnification
  - \* right to voluntary and safe return to original communities
  - \* right to rehabilitation

**WG on the Right to Development**

- There are two specific rights under this right:
  - \* right to participate in the development process
  - \* peoples' right to self-determination

**WG on the Right to Education**

- The right to education consists of the rights of students, rights of teachers and education workers.

**WG on Environmental Rights  
(again taken from 1994 meetings)**

- There are very specific rights under this right such as right to safe drinking water, etc.
- There are also specific rights related to environment such as: right to information, right to compensation, right to parti-

cipation, right to freely partake in the benefits of nature and right to equitable distribution.

**WG on Right to Health**

- The right to health is a broad right which encompasses: right to health promotion, right to health maintenance, right to health protection, right to health care.

**WG on Women's Rights**

- Among the myriad rights of women, the following were singled out initially: sexual rights, reproductive rights, and rights of women in rural areas to education and health.

**D. State Obligations****WG on Rights of Internal Refugees**

- The government holds the responsibility of ensuring that there will be less refugees in number and, if there are any, the State should be able to fulfill their rights.

**WG on the Right to Health**

- The duty-holders of the right to health are mainly the State, non-government organizations and the individuals concerned.
- WHO standards require that the government have a national health policy and



that 5% of the annual GNP should be allocated to health services.

- The government should provide majority of its population, if not all, primary health care.

## **E. Possible Indicators**

### **WG on Right to Development**

- Development indicators that may be formulated will be composite of indices.
- Development indicators should not only be quantitative but also qualitative to comprehensively assess the development process.

### **WG on the Right to Education**

- The WG may explore the possibility of developing indicators to evaluate the extent of academic freedom and the degree

of critical thinking. These two concepts are very difficult to quantify.

### **WG on the Right to Health**

- Possible new health indicators can arise from examining the following phenomenon:
  - a. The rise of diseases caused by negative attitudes and mindset
  - b. The rise of neoplasm (cancers) which are tension and stress-related as cause of deaths
  - c. The affordability of safe and nutritious food
  - d. The accessibility of medicine, technology, equipment and medical services
  - e. The options open to Filipinos other than western medical practices & medicine.



## ANNEX B

# List of Participants in the National Conference

## A. REGIONAL PARTICIPANTS

## MINDANAO

*Southern Mindanao*

1. Virgie Arnejo (TFDP)
2. Betty de Vera (SELDA)

*CARAGA (Bukidnon)*

3. Vangie Cabutad (BHPD)

*Central Mindanao*

4. Allan Quitariano (LPHD)
5. Emma Guilial (TFDP, Moro)

*Western Mindanao*

6. Elsa Buac (BALAY)
7. Frank Mabulay (Local Government)

*Lumad*

8. Jimid Mansayanagan (Lumad Mindanao)

*Total* ..... 8

## VISAYAS

*Central Visayas*

9. Rommie Pacana (TFDP)
10. Rudy de Lima (KABAKA)
11. Fr. Brigido Odojan (SVD)

*Eastern Visayas*

12. Pastor Gamalo (KAPATID)

*Western Visayas*

13. Amelia Tionko (KATIN-IRAN)
14. Joe de Piedra (DKMP)

*Total* ..... 6

## LUZON

*Central Luzon*

15. Raffy Hipolito (TFDP)

*Total* ..... 1



**B. GROUPS**

1. Rose Trajano  
Working Group on Health
2. Rommel Obinario  
Working Group on Education
3. Anelyn de Luna  
Working Group on Development
4. Tsaris Medina  
Working Group on Internal Refugees

*Total* ..... 4

**C. Non-PAHRA**

1. Leah Parayno (DLAC)
2. Joel Rodriguez (MODE)
3. Jimmy Libiran (BISIG-LEARN)

*Total* ..... 3

**D. PAHRA**

1. Auxilium Toling Olayer
2. Niza Concepcion

**Council of Leaders**

3. Evelyn Balais-Serrano
4. Diego Quejada
5. Etta Rosales

*Total* ..... 5

**E. PHILRIGHTS**

1. Daryl Leyesa

**Board Members**

2. Flora Arellano
3. Ditas Go-Zurbano
4. Francis de la Cruz

*Total*..... 4

**F. TASK FORCE MEMBERS**

Rosario Garcia  
Ramon Casiple  
Atty. Johannes Ignacio  
Maximiliano de Mesa  
Bernie Larin  
Resurreccion Lao-Manalo

*Total*..... 6

*Total Number of Participants* ..... 37

**G. OTHERS:****Technical Staff**

Ellen Apostol  
Zenny Ocampo

**Documentor**

Victor Viray

*Total*..... 5

*Total Number of  
Conference Attendants* ..... 40



## ANNEX C

# List of Participants in Regional Consultations

### I. LUZON CONSULTATION (November 27-29, 1995)

1. Andro Estareja (TFDP)
2. Lalaine Viado (Balay)
3. Tsaris Medina (ECDFC)
4. Greg Zurbano (ATRC)
5. Rose Trajano (MAG)
6. Aurora Parong (MAG)
7. Wally Upalda (LSC)
8. Norman Patinio (IPD)
9. Rey Gonzales (PeoplesMend)
10. Raffy Hipolito (TFDP-CL)
11. Junice Melgar (Likhaan)
12. Charo Garcia (PhilRights)
13. Roz Galang (PhilRights)
14. Daryl Leyesa (PhilRights)
15. Bernie Larin (PhilRights)
16. Ellen Apostol (PhilRights)

### II. 2nd LUZON CONSULTATION (April 25-26, 1996)

1. Rene Navata  
(Lingaye Coastal Area Resources  
Management Commission)

2. Bong Mendoza  
(Task Force Member/UP Political  
Science Department Faculty)
3. Charo Garcia (PhilRights)
4. Resurreccion Lao-Manalo  
(PhilRights)
5. Ramon Casiple (PAHRA Consultant)
6. Bernie Larin (PhilRights)

### III. Western Mindanao Consultation (May 11-12, 1996)

1. Resurreccion Lao-Manalo  
(PhilRights)
2. Charo Garcia (PhilRights)
3. Bernie Larin (PhilRights)
4. Ramon Casiple (Task Force Member/  
PAHRA Consultant)
5. Bong-e Clamonte (TFDP-WMR)
6. Felix Guminud (JP Worker)
7. Antonio Fabria (JP worker)
8. Thelma Catingub-Saturion  
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9. Elsa L. Buac (Balay-WMR)
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11. Frank Mabulay (AFUZS)



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1. Rudy de Lima (Konseho sa Alyansa  
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5. Pabs Jandayan (TFD-Dumaguete)
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19. Inday Olayer (PAHRA)
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21. Titione Lao-Manalo (PhilRights)
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**VI. ILOILO CONSULTATION****(June 4-6)**

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5. Jose de Piedra  
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7. Cecile C. Rico (PPI-Panay)
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9. Jose Allen Aquino (Siglaya-Labor)
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12. Manuel Homena (Individual)
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### **Task Force Members**

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## About PhilRights

**E**stablished in July 1991 by the Philippine Alliance of Human Rights Advocates, the **Philippine Human Rights Information Center** seeks to bring human rights information, research and analysis where and when they are needed.

A service institution of the Alliance and the larger national community, **PhilRights** strives to achieve the following goals:

- Greater awareness, knowledge and understanding of human rights conditions, issues, mechanisms and trends among Alliance members and the general public;
- Stronger and more dynamic human rights movement through the pooling and analysis of human rights information, and through dialogues and exchanges on human rights and related issues;
- Higher level of information exchange through broader and more effective networking locally and internationally;
- Optimal use of information technology to increase the capabilities of human rights organizations and people's organizations in the promotion and defense of human rights;
- Integration of human rights into all major spheres of the national life.

**PhilRights** combines the power of grassroots-based approaches, expertise-building and information technology in the following programs:

- Human Rights Forum
- Project on Monitoring Economic, Social and Cultural Rights
- Information Dissemination
- Library and Databank
- Research and Publications



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