## Executive Summary of the Assessment of the previous Concluding Observations

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<tr>
<th>Concluding Observations</th>
<th>Grade</th>
<th>Overview</th>
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<tbody>
<tr>
<td>6. The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations subscribed to under the Covenant.</td>
<td>N/A</td>
<td>Since the last review of the HR Committee in 2004, Philippines adopted domestic laws that mirror international human rights instruments, such as Anti-Torture Law or Republic Act 9745, criminalization of violations of International Humanitarian Law (IHL) or Republic Act 9851, Magna Carta for Women, anti-child pornography law of 2009 and ratified the Convention on the Rights of Persons with Disabilities (CRPD) and Rome Statute of the International Criminal Court.</td>
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<tr>
<td>7. The State party should establish procedures to implement Views of the Committee and to ensure compliance with requests for interim measures of protection.</td>
<td>B2</td>
<td>The Aquino government stated that human rights would be a pillar of his governance, a basis of his development plans and the core of the paradigm shift in the security sector. However, after one and a half years in power, it still has no clear human rights agenda with the draft National Human Rights Action Plan (NHRAP) still waiting presidential approval.</td>
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<td>8. The State party should:</td>
<td>N/A</td>
<td>The failure of the government to adopt its NHRAP that would have given direction to the State to implement its obligations under the rights of children, women, migrants, indigenous peoples, and lesbians, gays, bi-sexual, and trans-gender (LGBT), persons with disabilities as well as the rights to life, food, health, education and work. Concomitantly, there is lack of decisiveness and haphazard approach by State agents in following-up the implementation of the accepted recommendations from the last UPR.</td>
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<td>(a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.</td>
<td>N/A</td>
<td></td>
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<tr>
<td>(b) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation. The State party should provide information on the outcome of the proceedings related to the cases of Eden Marcellana and Eddie Gumanoy and the execution of 11 persons on Commonwealth Avenue, Manila, in 1995.</td>
<td>C</td>
<td>The absence of a National Monitoring Mechanism (NMM) composed of the CHRP, government agencies, security sector, and civil society, exacerbated by the non-passage of a law on the right to information and lack of transparency in complaint processes has eroded the substance of human rights pronouncements and encouraged impunity to thrive. The State has to fully integrate and consistently use the rights-based approach in its governance, legislative and development plans.</td>
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<tr>
<td>9. The State party should ensure that legislation adopted and measures taken to combat terrorism are consistent with the provisions of the Covenant.</td>
<td>C</td>
<td>The Human Security Act (Republic Act 9372) or The Anti-Terrorism Law passed by the Philippine Congress in February and signed by then President Gloria Macapagal-Arroyo in March, took effect on July 15, 2007. Task Force Detainees of the Philippines (TFDP) was able to document a case of arrest and detention</td>
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**Coordinated by the Task Force Detainees Philippines (TFDP) and the Centre for Civil and Political Rights (CCPR-Centre)**

**Advanced Unedited Version**

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<tr>
<th>Grade</th>
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<tbody>
<tr>
<td><strong>A</strong></td>
<td>Response / Action largely satisfactory</td>
<td>using this law that was later dismissed for lack of evidence. However, the “safety net claim” was said to be inappropriate to the victim’s case.</td>
</tr>
<tr>
<td><strong>B1</strong></td>
<td>Substantive action taken, but additional information required</td>
<td>Capital Punishment in the Philippines was abolished through the passing of Republic Act No. 9346 which was signed by Former President Gloria Macapagal-Arroyo on June 24, 2006. The penalty of reclusion perpetua replaced the death penalty.</td>
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<tr>
<td><strong>B2</strong></td>
<td>Initial action taken, but additional action / information required</td>
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<tr>
<td><strong>C</strong></td>
<td>No action taken by the State Party to implement the recommendation</td>
<td>Thorough subject of extrajudicial killing has been mentioned by current President Benigno Aquino III in his State of the Nation Address it just seemed to be a passing remark reminding the Department of Justice on its role in jailing offenders with a higher priority for Tax evaders. On arbitrary arrest and detention, TFDP was able to document 71 cases of arrest and detention with 97 victims for 2011 alone. Although the Anti-Torture Act was passed in 2009, non-compliance and complicity by law enforcers have rendered the law ineffective in providing justice to victims. PAHRA members in cooperation with the Commission on Human Rights of the Philippines filed two torture cases both in 2010 involving victims that were both tagged as rebels by law enforcers. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) has not been ratified. The Department of Justice wants to defer for three years the visit of the Sub-Committee on Prevention of Torture to places of detention in the Philippines once OPCAT has been ratified. PHRC in 2008 supported the full ratification of OPCAT.</td>
</tr>
<tr>
<td><strong>C</strong></td>
<td></td>
<td>Despite the removal of Philippines in trafficking Tier 2 watchlist, substantial number of Filipinos still fall prey to trafficking due to lack of local decent employment. Worse, victims are the ones being criminalized especially in cases of undocumented women overseas workers. There is difficulty in addressing new forms of violence against women such as ICT related VAW ranging from cyberharassment, cyberpornography, to cybertrafficking due to lack of readiness of law enforcement and absence of clear investigation guidelines.</td>
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<tr>
<td><strong>C</strong></td>
<td></td>
<td>The numbers of arbitrary arrest committed by law enforcers are still rampant in the Philippines specially in politically motivated cases. TFDP documented cases of arrest without warrant, use of excessive force during the arrest, and cases of mistaken identity.</td>
</tr>
<tr>
<td><strong>C</strong></td>
<td></td>
<td>Internal displacement due to skirmishes between government troops and rebels groups Moro Islamic Liberation Front and the New People’s Army still continues in areas in Mindanao. Armed encounters threatened the lives of numerous families who after the event, opt not to return to the areas.</td>
</tr>
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**Grade A: Response of the State Party / Action Satisfactory:** State Party Response / Action largely satisfactory

**Grade B: Response of the State Party / Action partially satisfactory:** B1: Substantive action taken, but additional information required - B2: Initial action taken, but additional action / information required

**Grade C: Response of the State Party / Action not satisfactory:** C: No action taken by the State Party to implement the recommendation
Coordinated by the Task Force Detainees Philippines (TFDP) and the Centre for Civil and Political Rights (CCPR-Centre)

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<td>C</td>
<td>No action taken by the State Party to implement the recommendation</td>
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<tr>
<td>C</td>
<td>By all indications, the Aquino government will not revise its predecessor’s policy of aggressively promoting large-scale mining even if Mining Act of 1995 runs contrary to indigenous people’s rights to self determination and ancestral domain as guaranteed by 1987 Constitution and IPRA.</td>
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<tr>
<td>C</td>
<td>Juvenile Justice Law has not been properly implemented due to following: a.) low level of knowledge and lack of capacity of local officials and law enforcers; b.) non-allocation of mandated budget for local councils for the protection of children (LCPC’s); c.) absence of intervention programs in many areas; and d) lack of resources and unclear mandate of the Juvenile Justice Welfare Council. In addition, there are proposals in Congress to suspend the Juvenile Justice Act and lower the Minimum Age of Criminal Responsibility from 15 to 11 or 9 years old.</td>
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<tr>
<td>C</td>
<td>According to the 2011 report of the Secretary-General to Security Council (A/65/820-S/2011/250) issued 23 April 2011 there was an increase in the recorded number of cases of child recruitment and used by armed groups in 2010 (24 children), compared to 2009 (6 children). Three cases were verified in 2010 involving boys, aged 13, 15 and 16 years old. Also, there are problems with regards the post-conflict care facilities for women for those affected by the conflict such as food, shelter and clothing.</td>
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<tr>
<td>N/A</td>
<td>Anti-discrimination bills, originally, House Bills 956 and Senate Bill 11 were filed in Congress in 1998 but up to now, thirteen (13) years later, the HoR has yet to adopt them. Laws like vagrancy act, anti-public scandal and anti-trafficking act are being used to discriminate, abuse and criminalize women and LGBTs.</td>
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16. The State party should ensure effective enforcement of the above legislation and ensure that indigenous peoples’ land and resource rights enjoy adequate protection in relation to mining and other competing usage, and that the capacity of the National Commission on Indigenous Peoples is strengthened. Positive measure should be expanded to include land rights issues.

17. The State party should:

(a) Expedite the adoption of legislation governing juvenile justice which complies with international standards of juvenile justice in accordance with article 10, paragraph 3, of the Covenant. The Committee recommends that training for professionals in the area of administration of juvenile justice be enhanced and that human and financial resources for effective implementation of the new legislation be secured;

(b) Devise programmes for street children which offer support and assistance. Support to relevant non-governmental organizations is encouraged in this respect;

(c) Take all appropriate measures to ensure protection of children who have been involved in armed conflict and provide them with adequate assistance and counselling for their rehabilitation and reintegration into society (art. 24); and

(d) In relation to child labour, the State party should pay particular attention to the situation concerning the monitoring and effective implementation of labour standards for street children and children working in the informal sector, as well as those working in the Free Trade Zone.

18. The Committee urges the State party to take the necessary steps to adopt legislation explicitly prohibiting discrimination, in accordance with articles 3 and 26 of the Covenant. The Committee notes that legislation related to sexual orientation is currently being discussed in Congress and urges the State party, in this context, to pursue its efforts to counter all forms of discrimination. The State party is further invited to strengthen human rights education to forestall manifestations of intolerance and de facto discrimination.
## General Assessment of the previous Concluding Observations

<table>
<thead>
<tr>
<th>Committee Recommendation</th>
<th>Grade</th>
<th>Action taken by the State</th>
<th>Further Actions needed</th>
<th>Other comments from the NGOs</th>
</tr>
</thead>
</table>
| 6. The Committee notes the absence of information regarding the status in domestic law of the Covenant and on whether any Covenant provisions have been invoked in court proceedings to date. The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations subscribed to under the Covenant. | N/A   | • Since the last review of the HR Committee in 2004, Philippines adopted domestic laws that mirror international human rights instruments, such as:  
  - Anti-Torture Law or Republic Act 9745 on November 10, 2009  
  - Criminalization of violations of International Humanitarian Law (IHL) or Republic Act 9851 on December 11, 2009  
  - Magna Carta of Women or Republic Act 9710 on August 14, 2009  
  • In addition the State ratified the Convention on the Rights of Persons with Disabilities (CRPD)on September 25, 2007 and Rome Statute of the International Criminal Court on August 30, 2011 | • Proper implementation of the laws. |  |
| 7. The Committee regrets the lack of information on the procedure for the implementation of the Committee’s Views under the Optional Protocol. In particular, it is concerned by the grave breaches by the State party of its obligations constituted by its lack of compliance with the Committee’s requests for interim measures of protection in cases submitted under the Optional Protocol (Piandiong, Morallos and Bulan v. Philippines). The State party should establish procedures to implement Views of the Committee and to ensure compliance with requests for interim measures of protection. | B2    | • Though a second National Human Rights Action Plan (NHRAP) was adopted during the term of former President Gloria Arroyo, it was shelved when President Aquino came to power in June 2010. CSO were consulted once during the formulation of the NHRAP.  
  • According to the draft NHRAP, among the priority areas are the 2008 UPR results, recommendation of treaty bodies, special procedures, as well as proposals from CSO’s. However, said document did not articulate legislations and policies recommended by the UNHRC and other treaty bodies. It would have been best if | • A clear human rights agenda with the draft NHRAP to be approved by the President. |  |

### Grade A: Response of the State Party / Action Satisfactory:
State Party Response / Action largely satisfactory

### Grade B: Response of the State Party / Action partially satisfactory:
B1: Substantive action taken, but additional information required - B2: Initial action taken, but additional action / information required

### Grade C: Response of the State Party / Action not satisfactory:
C: No action taken by the State Party to implement the recommendation
**Coordinated by the Task Force Detainees Philippines (TFDP) and the Centre for Civil and Political Rights (CCPR-Centre)
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<th>Note</th>
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<tr>
<td>C</td>
<td>No action taken by the State Party to implement the recommendation</td>
<td>N/A</td>
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<tr>
<td>B</td>
<td>Substantive action taken, but additional information required</td>
<td>B1: Initial action taken, but additional action / information required</td>
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<tr>
<td>A</td>
<td>The commitments made by the Philippines have been categorically stated in the plan so as to ensure that these would be acted upon</td>
<td>B2: Initial action taken, but additional action / information required</td>
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8 The Committee is concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, the Committee is concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms have been violated.

(a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.

(b) The State party should provide information on the outcome of the proceedings related to the cases of Eden Marcellana and Eddie Gumanoy and the execution of 11 persons on Commonwealth Avenue, Manila, in 1995.

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<td>C</td>
<td>In December 2011, ex-Military Palparan is searched after a Regional Trial Court Judge issued a warrant for his arrest on a different case of human rights violations (abduction and illegal detention of two University of the Philippines Students: Karen Empeño and Sherlyn Cadapan). Regarding the killing of 11 men in Commonwealth Avenue in 1995, after the case has been reopened in April 2003, when the Supreme Court ordered Judge Ma. Theresa Yadao to hear the case it was later dismissed in her court in favor of the alleged perpetrators, Senator Panfilo Lacson et al for lack of probable cause</td>
<td>N/A</td>
</tr>
<tr>
<td>C</td>
<td>To have a National Monitoring Mechanism composed of the Commission on Human Rights of the Philippines (CHR), government agencies, security sectors, and civil society. The State has to fully integrate and consistently use the rights-based approach in its governance, legislative and development plan.</td>
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<tr>
<td>A</td>
<td>Convene a multisectoral review body for HR curricula and modules of security sector focused towards ensuring use of experiential learning methodologies, and its field application. The stress and starting point should always be respect of people’s rights and dignity and appreciation of roles of HRDs. Regular monitoring of implementation should also be conducted.</td>
<td></td>
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<tr>
<td>A</td>
<td>Commission on Human Rights of the Philippines (CHR) has been instrumental in designing and conducting human rights education for members of security forces. Efforts of security sector like appointment of HR Desk, formulation of the AFP Human Rights Handbook and HR based operational guidelines though may still need improvements.</td>
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Grade A: Response of the State Party / Action Satisfactory: State Party Response / Action largely satisfactory
Grade B: Response of the State Party / Action partially satisfactory: B1: Substantive action taken, but additional information required - B2: Initial action taken, but additional action / information required
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<td>C</td>
<td>The prosecutors filed an administrative case against Yadao for her “manifest partiality” in the case in the same year. In May 2008, lawyers of the families urged the Supreme Court to act on the case. Alleged perpetrator Senator Lacson went into hiding after an arrest warrant was issued against him on a different case (extrajudicial killing of Bobby Dacer, a Public Relation Specialist and driver Emmanuel Corbito) on February 4 and July 23, 2010. Senator Lacson, later surfaced on March 2011 after the court of appeals voided the warrant.</td>
<td>impunity to thrive.</td>
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9. The Committee has noted pending legislation related to terrorism awaiting adoption by the Congress of the Philippines. While the Committee is mindful of the security requirements associated with efforts to combat terrorism, it is concerned by the exceedingly broad scope of the proposed legislation, as acknowledged by the delegation. The draft legislation includes a broad and vague definition of acts of terrorism which could have a negative impact on the rights guaranteed by the Covenant. The State party should ensure that legislation adopted and measures taken to combat terrorism are consistent with the provisions of the Covenant.

- Repeal the Human Security Act of 2007 or Republic Act 9372
- Just compensation with the “safety net claim” as stated in the law to those who were arrest and detained using RA 9372.
- The Human Security Act (Republic Act 9372) or and the Anti-Terrorism Law passed by the Philippine Congress in February 2007 and signed by then President Gloria Macapagal-Arroyo in March, took effect on July 15, 2007.
- Task Force Detainees of the Philippines (TFDP) was able to document a case of arrest and detention using this law that was later dismissed for lack of evidence. However, the “safety net” was said to be inappropriate to the victim’s case.

10. The Committee notes the current partial moratorium on execution of death sentences (while drug-related crimes are excluded from this moratorium), but it remains concerned by the adoption of legislation providing for the death penalty after article 3, section 19(1), of the Constitution of the Philippines had prohibited the imposition of the death penalty. In any event, the

- Capital Punishment in the Philippines was abolished through the passing of Republic Act No. 9346 which was signed by Former President Gloria Macapagal-Arroyo on June 24, 2006.
- The penalty of reclusion perpetua replaced the death penalty.

**Grade A: Response of the State Party / Action Satisfactory:** State Party Response / Action largely satisfactory

**Grade B: Response of the State Party / Action partially satisfactory:** B1: Substantive action taken, but additional information required - B2: Initial action taken, but additional action / information required

**Grade C: Response of the State Party / Action not satisfactory:** C: No action taken by the State Party to implement the recommendation
Committee has noted that the death penalty is mandatory for a number of crimes and extends to an excessive number of offences which do not fit the definition of the “most serious” crimes within the meaning of article 6, paragraph 2, of the Covenant. The Committee notes that the death penalty is prohibited for persons under 18 years of age, but is concerned that minors have been sentenced to death, seven of whom are currently detained on death row. The Committee urges the State party to take measures to repeal all laws which have made it possible to impose the death penalty and to accede to the Second Optional Protocol to the Covenant. It should also ensure compliance with article 6, paragraph 5, of the Covenant prohibiting the imposition of the death sentence for crimes committed by persons below eighteen years of age.

| Grade | C: 
No action taken by the State Party to implement the recommendation |
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<td><strong>C</strong></td>
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<td>• Enact laws addressing criminalizing extra-judicial killings and utilize the Minnesota Protocol in investigating extrajudicial killings.</td>
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<td>• Institutionalize and strengthen the multi-stakeholder National Monitoring Mechanism and have it replicated and coordinated at local levels.</td>
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<td>• Immediately create a human rights institution in the Autonomous Region of Muslim Mindanao</td>
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<td>• Though the subject of extrajudicial killing has been mentioned by current President Benigno Aquino III in his 2007 State of the Nation Address, it just seemed to be a passing remark reminding the Department of Justice on its role in jailing offenders with a higher priority for Tax evaders.</td>
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<td>• Atty. Al Parreno, commissioned by The Asia Foundation and USAID made as on extrajudicial killings in the Philippines. In his study he documented 31 cases of extrajudicial killings from 2008 to August 15, 2010 with 8 incidences under Aquino administration. The same research unearthed 305 cases from 2001-August 2010 of which 32% of victims were human rights defenders (HRDs). From same 305 EJK cases, 56.29% were filed before prosecutors, 33.22% prosecuted, 32.52% tried in court, and only 1.05% had convictions.</td>
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11. The Committee expresses concern regarding reported cases of extrajudicial killings, arbitrary detention, harassment, intimidation and abuse, including of detainees, many of whom are women and children, that have neither been investigated nor prosecuted. Such a situation is conducive to perpetration of further violations of human rights and to a culture of impunity.

*The State party should adopt and enforce legislative and other measures to prevent such violations, in keeping with articles 6 and 9 of the Covenant and to improve the implementation of relevant laws. The State party should conduct prompt and impartial investigations, and prosecute and punish the perpetrators.*

Grade A: Response of the State Party / Action Satisfactory: State Party Response / Action largely satisfactory

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short, 99% of 305 cases surveyed remain unsolved.
- Impunity in Muslim areas is compounded by political warlordism and practice of Rido. There is general knowledge that there are more cases of human rights violations and abuses in Mindanao however most are unreported. The victims are compensated through blood money which even the military takes advantage of to avoid accountability. A commission on human rights in the Autonomous Region of Muslim Mindanao (ARMM) is still non-existent despite provision for such institution under ARMM law or Republic Act 6734.
- The Maguindanao massacre where 58 people, many of whom media people, were killed allegedly by top government officials of the region was the epitome of violations in Mindanao.
- On arbitrary arrest and detention, TFDP was able to document 71 cases of arrest and detention with 97 victims for 2011 alone.

12. The Committee is concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture in accordance with articles 7 and 10 of the Covenant. The Committee notes that evidence is not admissible if it is shown to have been obtained by improper means, but remains concerned that the victim bears the burden of proof in this event.

The State party should institute an effective system of monitoring treatment of all detainees, to ensure:

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that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation. Free access to legal counsel and a doctor should be guaranteed in practice, immediately after arrest and during all stages of detention. All allegations that statements of detainees have been obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture, and the burden of proof, in such cases, should not be borne by the alleged victim.

13. The Committee notes with concern numerous instances of trafficking (art. 8) of women and children in the Philippines, both within the country and across its borders. While noting the importance of existing legislation (R.A. 9208) in this domain, it is concerned that insufficient measures have been taken actively to prevent trafficking and to provide assistance and support to the victims.

The State party should take appropriate measures to combat trafficking in all its forms, by ensuring effective enforcement of the relevant legislation and imposing sanctions on those found responsible. The Committee encourages the State party to ensure gender-specific training to sensitize the officials involved with problems faced by victims of trafficking, in accordance with articles 3, 8 and 26 of the Covenant.

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- The Anti-trafficking in Persons Act of 2003 should be allocated sufficient funds and effectively implemented.
- Prosecute corrupt officials in Philippine Embassies and ensure speedy repatriation of trafficking victims, by setting a humane timeframe for their stay in holding or detention areas abroad.
- Recommend receiving countries to sign and ratify the UN Trafficking Protocol, and legislate against criminalization of trafficked persons.
- Develop follow up mechanisms on the Off-loading passengers scheme in local/domestic seaports/airports through investigation and verification while ensuring respect for human rights when offloading them.
- On the other case, the prosecutor found Ronel Cabais case against the alleged torturer meritous and issued a warrant of arrest. However, the warrant could not be served because the Armed Forces of the Philippines (AFP) officials claimed the suspects’ names are not in their roster.
- From 2008-2011, Task Force Detainees of the Philippines documented 105 cases of torture with 163 victims.
- According to the Coalition Against Trafficking of Women in Asia Pacific (CATWAP), almost every day they receive at least one call to help a trafficked woman arrested and detained. Before they could be repatriated, imprisoned women abroad have to suffer months of lack of food, cruel treatment, and delays in processing their travel documents due to corruption in embassies.
- Although Magna Carta for Women Stipulates the designation of gender focal person in Philippine Embassies and consulates but no de facto budget has been provided, thus this function is usually assigned to existing personnel with no gender expertise.
- Protection and rehabilitation of rescued women are jeopardized by lack of resources of frontline agencies such as the social welfare department and police and by lack of shelters in provinces especially in ARMM. These
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| **14.** The Committee is concerned that the law allowing for warrant-less arrest is open to abuse, in that arrests in practice do not always respect the statutory conditions that the person arrested is actually committing a crime or that the arresting officer has “personal” knowledge of facts indicating that the person arrested committed the crime. The Committee is also concerned that a vaguely worded anti-vagrancy law is used to arrest persons without warrant, especially female prostitutes and street children. **The State party should ensure that its laws and practices with regard to arrest are brought into full conformity with article 9 of the Covenant.** | **B2** | • Commission on Human Rights of the Philippines has been instrumental in designing and conducting human rights education for members of security forces.  
• Efforts of security sector like appointment of HR Desk, formulation of the AFP Human Rights Handbook and HR based operational guidelines though may still need improvements.  
• The Senate and the House of Representative in two terms has made moves to strike-off vagrancy in the Revised Penal Code but it is still without fruition.  
• Confiscation or forfeiture of property of alleged perpetrators of trafficking as indicated in RA 9208 be implemented.  
• Convene a multisectoral review body for HR curricula and modules of security sector focused towards ensuring use of experiential learning methodologies, and its field application. The stress and starting point should always be respect of people’s rights and dignity and appreciation of roles of HRDs. Regular monitoring of implementation should also be conducted.  
• Senate and Congress should prioritize the revision of the Revised Penal Code to decriminalize vagrancy.  
• The numbers of arbitrary arrest committed by law enforcers are still rampant in the Philippines especially in politically motivated cases.  
• TFDP documented cases of arrest without warrant, use of excessive force during the arrest, and cases of mistaken identity. | **C** | **B2** | **C** |
| **15.** The Committee is concerned at continuing reports of displacement of persons and evacuation of populations, including indigenous population groups, in areas of counterinsurgency operations. **The State party should take urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with its human rights obligations.** |   |   |
| **16.** The Committee welcomes the adoption of the Indigenous Peoples’ Rights Act (IPRA) in 1997 and the subsequent establishment of the National Commission on Indigenous Peoples (NCIP), but remains concerned about the lack of effective implementation of the legislation. The Committee welcomes the positive measures noted by the delegation, but considers their scope to be limited. It is further concerned at the human rights implications for indigenous groups of economic | **C** | • By all indications, the Aquino government will not revise its predecessor’s policy of aggressively promoting large-scale mining even if Mining Act of 1995 runs contrary to indigenous people’s rights to self-determination and ancestral domain as guaranteed by 1987 Constitution and IPRA.  
• Enact laws addressing internal displacements.  
• Ask the Commission on Human Rights to conduct investigation on Violation of IHL in conflict-affected areas and take corresponding action in line with RA 9851.  
| **On August 2011, President Aquino showed his support to the mining industry by bringing along mining executives to his official visit to China were he witnessed signing of four mining agreements.**  
**Large scale mining has also been retained as one of the key priority areas under the Philippine Development Plan for 2011-2016.** |   |   |
activities, such as mining operations.

The State party should ensure effective enforcement of the above legislation and ensure that indigenous peoples’ land and resource rights enjoy adequate protection in relation to mining and other competing usage, and that the capacity of the National Commission on Indigenous Peoples is strengthened. Positive measure should be expanded to include land rights issues.

17. The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable. While recognizing that certain legislation has been adopted in this respect, many problems remain in practice, such as:
- The absence of adequate legislation governing juvenile justice and the deplorable situation of children in detention, including those held without evidence for prolonged periods of time;
- Persistent reports of ill-treatment and abuse, including sexual abuse, in situations of detention and children being detained together with adults where conditions of detention may amount to cruel, inhuman and degrading treatment (art. 7);

The State party should:

17 a) Expedite the adoption of legislation governing juvenile justice which complies with international standards of juvenile justice in accordance with article 10, paragraph 3, of the Covenant. The Committee recommends that training for professionals in the area of administration of juvenile justice be enhanced and that human and financial resources for effective implementation of the new legislation be secured;

| N/A | • The Juvenile Justice Law should be implemented effectively and not amended. The conditions of children in jails should be addressed by government especially the issue of torture, forces labor/slavery, ill treatment. Provide a healthy living environment for Children in detention.
• Maintain the current minimum age of criminal liability to 15 years old as stated in the Juvenile Justice Law.
• Government should ensure budget allocation both at national and local government/institutions/agencies for programs related to recovery and reintegration of children such as intervention and diversion programs for CICL and Alternative Learning System. |

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**Advanced Unedited Version**

| - Street children vulnerable to extrajudicial executions and various forms of abuse and exploitation;  
  
  *The State party should:*
  17 b) Devise programmes for street children which offer support and assistance. Support to relevant non-governmental organizations is encouraged in this respect; | N/A | • Enactment of laws concerning children’s rights such as the following: anti-statutory rape, SB 873 - Anti Corporal Punishment of Children Act. |
| - Children as young as 13 allegedly being used by armed groups without adequate measures of protection by the State (art. 24);  
  
  *The State party should:*  
  17 c) Take all appropriate measures to ensure protection of children who have been involved in armed conflict and provide them with adequate assistance and counselling for their rehabilitation and reintegration into society (art. 24); and | C | • Enactment of HB 4480 - Special Protection of Children in Situations of Armed Conflict.  
• Enhance effective sharing of information and coordination among actors involved in monitoring and reporting of Children in Armed Conflict. |
| - Economic exploitation of children, in particular in the informal sector.  
  17 d) In relation to child labour, the State party should pay particular attention to the situation concerning the monitoring and effective implementation of labour standards for street children and children working in the informal sector, as well as those working in the Free Trade Zone. | N/A | • Improve existing programs of government institutions that cater to promotion and protection of children’s rights such as implementation of the National Program of Action on Violence against children and pursuance of the National Strategic Framework for Plan Development for Children. |

18. While the Committee takes note of the constitutional provisions guaranteeing equal treatment of all persons before the law, the lack of legislation explicitly prohibiting racial discrimination is a matter of concern (arts. 3 and 26).  

| N/A | • Prioritize enactment of law against discrimination based on Sexual Orientations and Gender Identities (SOGI), reproductive health bill, and anti-prostitution law to shift liability from women to patrons and sex syndicates.  
• Anti-discrimination bills, originally, HB 956 and SB 11 were filed in Congress in 1998 but up to now, it is yet to be adopted.  
• Laws like vagrancy act, anti-public scandal and anti-trafficking act ae being used to |

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The Committee urges the State party to take the necessary steps to adopt legislation explicitly prohibiting discrimination, in accordance with articles 3 and 26 of the Covenant. The Committee notes that legislation related to sexual orientation is currently being discussed in Congress and urges the State party, in this context, to pursue its efforts to counter all forms of discrimination. The State party is further invited to strengthen human rights education to forestall manifestations of intolerance and de facto discrimination.

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<td>• Integrate repeal of Vagrancy Act, in the ongoing process to amend the Anti-Trafficking Law of 2003.</td>
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<td>• Hate crime should be legislated in Congress as particular criminal offense. The State should compel the police and the Department of Justice to work with the Commission on Human Rights, and LGBT experts and groups to define hate crime and implement procedures in the investigation of incidents, assisting survivors in accessing justice mechanisms, and the serious prosecution of accused parties.</td>
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<td>• In September 2011 alone, Coalition against Trafficking in Women – Asia Pacific (CATWAP), had to rescue at least 27 women out of jail, after being arrested by police. By experience, policemen ask sexual favors or extort money from arrested women in prostitution.</td>
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<td>• According to the Philippine LGBT Hate Crime Watch research on violence against the LGBT population in the Philippines, around 141 deaths of LGBTs with varying elements of motives of hate or bias, extrajudicial killing, and/or discrimination-related violence related to sexual orientation and gender identity have been documented in media mass media reports and oral testimonies since 1996.</td>
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Issue 3. The right to equality between men and women (art. 3)

Anti discrimination bills are still to be passed in the Congress and Senate.

Laws like the vagrancy act, anti-public scandal and anti-trafficking act are being used to discriminate, abuse and criminalize women and in September 2011 alone, Coalition against Trafficking in Women – Asia Pacific (CATWAP), had to rescue at least 27 women out of jail, after being arrested by police. By experience, policemen ask sexual favors or extort money from arrested women in prostitution.

The Reproductive Health Bill (now known as Responsible Parenthood, Reproductive Health and Population Development Act of 2011) is still pending in Congress. With lack of access to sexual and reproductive health information and service, women continue to face the risk of unplanned pregnancy, reproductive and sexually transmitted infections including HIV and AIDS.

Recommended questions:

- *When the Anti-discrimination bills are due to be passed in the Congress and the Senate?*
- *What is the impact of the vagrancy act, the anti-public scandal and anti-trafficking on the discrimination against women?*
- *When the Responsible Parenthood, Reproductive Health and Population Development Act of 2011 will be adopted by the Congress?*

Issue 6. Right to life (art. 6)
Coordinated by the Task Force Detainees Philippines (TFDP) and the Centre for Civil and Political Rights (CCPR-Centre)

Advanced Unedited Version

Task Force Detainees of the Philippines (TFDP) documented 23 cases of extrajudicial killings claiming the lives of 30 victims from year 2008 to 2011. In a study by Atty. Al Parreno, he documented 31 cases of extrajudicial killings from 2008 to August 15, 2010 with 8 cases happened during the Aquino administration.

It was also within the reporting period that the Maguindanao massacre happened claiming the lives 57 persons. On November 23, 2009 at Sharrik Aguak, Maguindanao, family of Esmael, Mangudadatu along with supporters and members of the media were on their way to the local office of the Commission on Elections when they were stopped and eventually killed allegedly through the orders of rival political clan, the Ampatuanos.

Recommended questions:

* According to certain sources, several cases of extrajudicial killings occurred in the recent years. How far the investigation is conducted? How the alleged authors of these crimes have be prosecuted and, if guilty, punished?

### Issue 7. Prohibition of torture, cruel, inhuman or degrading treatment or punishment (art. 7)

The Anti-Torture Act was passed in 2009 but non-compliance and complicity by law enforcers have rendered the law ineffective in providing justice to victims.

The case of torture of Lenin Salas et al was documented by Task Force Detainees of the Philippines. The victims filed a case of torture against members of the Philippines National Police but was dismissed by the prosecutor saying that the victims could not possibly have recognized their assailants because they were put in blindfolds. The prosecutor disregarde the fact that the act of blindfolding is prohibited by the anti-torture law.

A case of torture was also filed against a personnel of the Armed Forces of the Philippines. The case of Ronel Cabais’ torture is found meritous by the prosecutor and issued a warrant for the arrest of the the alleged perpetrator but the warrant could not be served because the AFP officials claimed that the suspects’ name were not in their roster.

In July 23-26, 2011, Abdul-Khan Balinting Ajid, a Muslim baker in Basilan was in Basilan was illegally arrested and tortured by members of the 39th Scout Rangers of AFP. The members of the AFP insisted that he is a certain Kanneh Malikil, the name on the warrant of arrest against Ajid’s insistently showing them his identification card. He alleged that he was beaten up, water cured, and burned. The brutality of his torture caught media attention forcing the military to dismiss the two personnel allegedly involved while the officer implicated is still under investigation.

The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) has not been ratified. The Department of Justice (DOJ) wants to defer for three years the visit of the Sub-Committee on Prevention of Torture to places of detention in the Philippines once OPCAT has been
ratified. During the Universal Periodic Review on 2008 the Human Rights Council recommended that the Philippines to ratify the OPCAT. The Presidential Human Rights Committee in 2008 supported the full ratification of OPCAT.

**Recommended questions:**

* According to certain sources, several cases of extrajudicial killings occurred in the recent years. How far the investigation is conducted? How the alleged authors of these crimes have be prosecuted and, if guilty, punished?

**Issue 9. Liberty and security of persons (art. 9)**

Task Force Detainees of the Philippines has documented 284 cases of illegal arrest and detention with 606 victims in the span of 2008 to 2011. (see: [http://www.tfdp.net/resources/statistics](http://www.tfdp.net/resources/statistics))

Most cases are arrests without warrant such as the arrest of Usman Guiamedel, a member of the Moro Islamic Liberation Front on May 25, 2011. The victim was at first abducted and was disappeared by armed men in civilian clothes believed to be members of the Military Intelligence Group and allegedly with back-up from the Philippine Marines in Lebak, Sultan Kudarat.

A day after his arrest, the victim was brought to the headquarters of the Armed Forces in Manila then later transferred to the Police Office in General Santos City after the AFP cannot establish their allegation that the Guiamedel is the certain Basit Usman, who is allegedly wanted for several cases linked to international terrorism.

Cases of illegal arrest due of mistaken identity like the case of Abdul-Khan Ajid, a baker who was arrested by the scout rangers is also common. The warrant of arrest is for a certain Kanneh Malikil, an alleged member of the Abu Sayyaf Group. He presented his identification card to the alleged perpetrators to no avail. Ajid was extremely tortured allegedly by member of the Special Operation Task Force Basilan (SOTF-B) for five days. He was surfaced 5 days after his arrest. His wife filed a petition for Writ for Habeas Corpus were the judge ordered for his transfer of custody from the military camp to the Isabela, Basilan Provincial Jail. For seven months now, no formal charges has been made against him.

In addition, on September 21, 2011, Presidential Spokesperson Edwin Lacierda sad that as far as they (the Aquino administration) knows there are no political prisoners categorizing his answer that there might be a question on the “terms of reference”. Sadly, this was just after a couple of months after political prisoners and detainees went on fasting and hunger strike after there indignation on the government’s failure to give Mariano Umbrero, a political prisoner who was then dying of cancer, freedom before his death.

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It took the government 23 days of hunger strike and fasting before the executive department, through the Presidential Human Rights Committee (PHRC), call for a meeting with the relatives of political prisoners and representatives of human right organizations.

The confusion of the executive department regarding the “terms of reference” could be brought about the predominant practice of charging political related offense to non-bailable offenses and common crimes and the branding or tagging of terrorist by state agents of active members of progressive or revolutionary organizations.

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**Issue 10. Treatment of persons deprived of their liberty (art. 10)**

According to the Children’s Legal Rights and Development (CLRD), there are 756 children in detention in Metro Manila alone, detained in cramped, unventilated, dark, stinky detention centers. From June 2009 to June 2011, CLRD has documented 76 cases of torture of children from their arrest and even while in detention awaiting trial. In provinces, many child suspects were detained for extended period without access to social workers and lawyers and not segregated from the adult suspects.

Torture of children in conflict with the law is prevalent but no reporting and documentation of child torture incidents is conducted. While policies fail to address torture in children, there is also a lack of differentiation between child abuse and child torture resulting to a low awareness of torture of children. Children are at risk of torture from time of arrest and until/if the child reaches a youth center or a NGO. In worse cases, torture and maltreatment take place in closed institutions, places of detention or in youth homes.

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**Issue 21. The right to peaceful assembly (art. 21)**

Numerous cases of violent dispersals has been documented by TFDP involving farmers in 2009 (see: http://landwatch.i.ph/blogs/landwatch/2009/05/26/roxas-slams-violent-dispersal-of-farmers-in-batasan-urge-gma-allies-to-heed-public-clamor-for-carp-extension/) as they fought for the passing for the Comprehensive Agrarian Reform Program Extension with Reforms Law.

On February 10, 2009, fifteen farmers from Negros, including two minors and the media liaison officer of Task Force Mapalad (TFM) were arrested by personnel of the Presidential Security Group (PSG) when they staged a lightning rally in front of the gate of Malacañang Palace. Some of the farmers suffered minor abrasions, bruises, and contusions during the scuffle.

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On May 25, 2009, around 2,000 farmers and supporters were violently dispersed by the Quezon City Police Civil Disturbance Group using water canons during a mobilization in the House of Representatives. Some of the farmer and Church leaders wanted to enter the Congress compound to observe deliberation of the CARPER bill but they were barred by the security personnel and later they demolished the farmers make-shift tents. After, fire trucks were brought to hosed down the demonstrators. Bishop Broderick Pabillo and other nuns supporters were not sparred from the spraying of water. Some of the farmers suffered from minor bruises as a result of the tumult.

Issue 22. The right to freedom of association (art. 22)

With the trend in business of outsourcing and subcontracting to reduce overhead cost, a serious workers’ right issue is labor contractualization. The Aquino government stamped its approval to this when it upheld the decision of Philippine Airlines (PAL) management to outsource its “non-core” operations such as catering, reservation and ground handle. This resulted to the retrenchment of 2, 600 regular PAL employees. When the Philippine Airlines Employee Association (PALEA) staged a work stoppage on September 28, 2011 to protest this scheme, President Aquino initially referred to the act as economic sabotage and asked lawyers if legal actions could be filed against PALEA.

Government established Special Economic Zones (SEZs) to lure foreign investments by giving tax incentives, exemptions and minimum labor standard regulation. As a result, reports of workers rights abuse by firms in SEZs have persisted over the years such as union busting, harassment and violation of minimum wage law and occupation health and safety guidelines.

Hanjin Heavy Industries, a Korean shipbuilding firm operating in Subic Freeport Zone, has been notorious due to numerous work-related accidents over the years. Samahan ng Manggagawa sa Hanjin Shipyard (SAMAHAN) or in translation, association of Hanjin Workers reported that more than 60 workers, mostly union members have been terminated under the pretext of health and safety violation. Allegedly, several company policies were used to suppress the workers’ right to self organization. According to the SAMAHAN records, 32 workers have died in work related accidents over they years. Until now, the management is yet to comply with necessary occupation health and safety measures based on given standards. (see: http://www.tfdp.net/campaigns/general-campaigns/262-urgent-action-philippines-harassment-intimidation-and-arbitrary-arrest-and-detention-of-three-hanjin-workers)

Issue 24. Rights of the child (art. 24)

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 Nationwide, based on the Abused Children National Statistical Board, the Department of Social Welfare and Development (DSWD) recorded 6,524 child abuse cases in 2009 and 4,749 incidents in 2010.

On Corporal punishment, a study of UNICEF Plan International and the Council for the Welfare of Children in 2009 on 6,931 revealed that “at least four out of ten children in Grades 1 – 3 and seven out of ten in Grades 4 -6 and high school have experienced violence in school”. Verbal abuse by teachers was the most frequent form of violence. The government is yet to enact laws concerning children’s rights such as the following: anti-statutory rape, Anti-Corporal Punishment of Children Act, Special Protection of Children in Situations of Armed Conflict. And Court Interpreters for Persons with Disabilities Act.

Moves to change the minimum age of criminal liability from 15 years old as stated in the Juvenile Justice Law to 11 years old or 9 years old are being posed by some legislators though the law is yet to be implemented properly. (see: http://www.businessmirror.com.ph/home/nation/18466-sotto-moves-to-amend-juvenile-justice-law and http://www.manilastandardtoday.com/insideNation.htm?f=2011/september/14/nation2.isx&d=2011/september/14 )

Issue 25. The right to participate in the conduct of public affairs, to vote and to be elected and access to public service (art. 25)

The Maguindanao Massacre that happened on November 23, 2009 killing families and supporters of Esmael Mangudadatu, including members of the media shows the impunity and gravity of elections in the country. The victims were on their way to file the certificate of Candidacy of Esmael Mangudadatu when they were stopped and later on killed. Mangudadatu was challenging Datu Unsay Mayor Andal Ampatuan, Jr, son of incumbent Maguindanao Governor Andal Ampatuan, Sr. in the governorial election part of the national elections in 2010.

Issue 27. The rights of minorities (art. 27)

The Aquino government is aggressively promoting large scale mining even if Mining Act of 1995 runs in contrary to indigenous people’s rights to selve determination and ancestral domain as guaranteed in the 1987 Constitution and IPRA.

In Dinalungan, Aurora, a Province in Luzon a tribal leader, Armando Maximino, chieftain of the Agtas in Delebsong, Barangay Nippo was killed on May 17, 2011 within the scope of their ancestral land. He was allegedly shot by two security personnel hired allegedly by an Earl Guerrero who are also claimants of the disputed land.
After his death, the Guerrero family and with the help of Municipal Mayor Tito Tubigan turned down the request of the Agtas to bury him near the grave of his parents within the disputed land. He was later buried in the exact spot were he was shot and killed.

After his burial, when the other members of the tribe returned to their houses, they were shocked to find that six of their houses were burnt down. They left the area out of fear that the perpetrators might do additional harm.

The Guerreros after, extended their fence covering the ancestral domain of the Agtas.

Based on records, in 1953 the tribe applied for 49 hectares of land as their own reservation. In August 1956, the survey plan was approved.

In September 29, 1998, the first endorsement for the application for Certificate of Ancestral land title was release and the second endorsement was later released in December 29, 2000. The ocular inspection report was submitted to the National Commission on Indigenous Peoples dated June 29, 2001 which states the totality and available proofs of the Agtas ancestral laid claim.

But in 2006, the Guerrero family was able to acquire thirteen titles for the thirty-two hectares of lands eventhough their parent Mr Eufemio Guerrero only bought seven hectares based on the available document.

On May 13, 2011, a memo report from the Provincial Environment and Natural Resources Office declared that all patents issuued to the Guerreros be declared null and void.

But on the same date, local police, hired security personnel and head of the peace and order auxiliary of the Barangay installed fences and borders allegedly based on the instruction of Mayor Tubigan to contain the tribe. When the Agtas resisted in the putting up of the fence they were arrested.

On May 18, 2011, the Guerrero family build barbed wire fences and improvised warning device to their supposed land.

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About Task Force Detainees of the Philippines (TDFP)

TFDP envisions a society where there is equality of peoples throughout the world, social justice in the country, and where human rights (civil, political, economic, social, cultural and solidarity rights) are fully enjoyed and respected by all. In cooperation with the broad human rights movement, TFDP shall advocate and support social structures and actions that promote human rights nationally and globally. As a service organization, TFDP shall work to: protect the rights and promote the interests of political prisoners and other victims of human rights violations, and create awareness of their rights and of basic human rights concepts and principles.

TFDP shall: help in seeking justice and provide systematic services for political prisoners and other victims of human rights violations; inform the peoples in the country and the international community of the human rights situation in the Philippines, particularly the plight of political prisoners and other human rights violations; educate people of their rights and on basic human rights concepts and principles; help in strengthening the Philippine and the international human rights movements; foster stronger cooperation among non-governmental organizations, peoples' organizations, and other support groups locally and internationally, especially among countries in the South.

Website: www.tfdp.org

About the Centre for Civil and Political Rights (CCPR-Centre)

The Centre for Civil and Political Rights aims to promote, facilitate and develop NGO engagement with the UN Human Rights Committee. The Human Rights Committee is the UN body in charge of monitoring the implementation of the rights protected by the International Covenant on Civil and Political Rights (ICCPR), ratified by 167 States.

The Centre for Civil and Political Rights works to promote the participation of NGOs in the work of the Human Rights Committee, raising awareness, strengthening NGOs' capacities, and providing technical and legal support at all stages of the reporting process, including the follow-up of the recommendations of the Committee.

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