JOINT SHADOW REPORT TO THE UNITED NATIONS
HUMAN RIGHTS COMMITTEE

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Submitted by:

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and

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I. Introduction

1. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

2. The International Human Rights Clinic at Western New England University School of Law is a non-profit educational endeavor committed to advancing human rights across borders.

3. The Global Initiative for Economic, Social, and Cultural Rights and the International Human Rights Clinic at Western New England University School of Law would like to bring to the attention of the Human Rights Committee the recurring situation of violent, forced evictions currently happening in the Philippines. We bring to your attention to the particular events surrounding the forced evictions in Corazon de Jesus on January 11, 2012. In particular, these evictions constituted violations of the International Covenant on Civil and Political Rights (Covenant) Articles 2(3), 6, 7, 10, and 17.

II. History of Forced Evictions in Philippines

A. Introduction

4. Selected citizens of the Philippines have endured a long and well-documented history of forced and violent evictions from their homes. The 1995 Concluding Observations of the Committee on Economic, Social, and Cultural Rights on the Philippines outlined specific changes required to bring the country into compliance with its human right obligations under international law, and concluded that forcible evictions may only occur as a last resort. The report addresses the need for legislation to ensure citizens facing evictions were provided with adequate procedural and substantive protections and appropriate relocation services, including measures such as reasonable and fair notice, exhaustion of other possible remedies such as alternative building sites, and a process for the citizens to contest proposed evictions. In the absence of a viable alternative to evictions, the Concluding Observations specifically opined that the relocation process had to provide dislocated residents with reasonable alternative housing. The Concluding Observations note that when relocating evicted or homeless persons or families, attention should be paid to the availability of job opportunities, schools, hospitals or

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2 Id.
health centers, and transport facilities in the areas selected. The Concluding Observations also recommended that the government of the Philippines should establish an independent body responsible for preventing illegal forced evictions and for documenting any ongoing or planned evictions.

5. In 2008, the Concluding Observations of the Committee on Economic, Social, and Cultural Right outlined areas where the Philippines were not following the recommendations of the 1995 report. The Committee noted that the Covenant was not enforced by national courts, tribunals, or administrative authorities and the protection and promotion of economic, social, and cultural rights is not included in the mandate of the Commission on Human Rights of the Philippines (CHRP).

6. The Committee expressed dismay at the lack of adherence to their directives from 1995, noting that it regrets that most of its previous recommendations relating to the prevention of illegal forced evictions (1995) have not been acted upon by the State party, and remains deeply concerned about the large-scale forced eviction of urban families carried out for the purpose of urban renewal and beautification which has reportedly affected over 1.2 million people in the period between 1995 and 2008. It is also concerned about the lack of effective consultation of, and legal redress for, persons affected by forced evictions, and the inadequate measures to provide sufficient compensation or adequate relocation sites to families who have been forcibly removed from the properties.

7. Legal remedies are not readily available to the targets of forcible eviction given their economic status and lack of political power. The land in Corazon de Jesus is considered a safe area and was declared a public land under the custody of San Juan City Government under Presidential Declaration 1716 of former President Ferdinand Marcos in 1978. President Marcos was ousted in 1986 and replaced by President Corazon Aquino. President Aquino, with encouragement from the residents of Corazon de Jesus, issued Presidential Declaration 164 in 1987 awarding the land of Corazon de Jesus to its long time residents. President Arroyo did the same in 2000. Unfortunately, the local government of San Juan City has refused to comply with these Presidential Proclamations and conducted a string of violent evictions in 1990, 1992, 1996, 1998, 2004, 2008, 2010, and 2011 all leading up to the current incident of January 11,
2012. The patina of legitimacy was conferred by a Supreme Court case from 1997 that declared prior Presidential Proclamations giving the land to the residents invalid, denying aggrieved parties any access to legal remedies.

8. Forced evictions are escalating to record levels as of late: the year 2011 had the highest number of documented cases of eviction since 1994, according to a study of Urban Poor Associates (UPA), a housing rights advocate. From January to December 2011, 14,744 families or 73,780 individuals were evicted in 39 demolition incidents. 92 percent of evictions are considered illegal as they lack requirements called for in the Urban Development and Housing Act.

9. According to Nardy Sabino, Secretary-General of the Promotion for Church People’s Response and convener of Philippines UPR Watch, these evictions are being conducted to pave the way for so-called development projects, but these only resulted to increase in the number of poor Filipinos who are forced to live on the streets and become homeless. They live in makeshift tents, as small as animal cages, with no water and electricity.

B. Current Incidents

10. Demolition Watch, a network of community-based organizations, has compiled a list of forced evictions and demolition incidents. From 2008 through 2012, tens of thousands families have been forcibly evicted throughout the Philippines in contravention of the standards set forth under international law.
III. Recent Forced Eviction in Corazon de Jesus

A. Introduction

11. The government of the Philippines has failed to provide adequate protections for its citizens, both through litigation establishing the right of the state to conduct such evictions\(^\text{18}\) and in practice. Accordingly, citizens of the Philippines have historically faced violent evictions from homes their families have occupied for decades. The specific incident we bring forth today is the violent evictions that took place on January 11, 2012 at Barangay Corazon de Jesus, San Juan City, Philippines.

12. The government promised high-rise, low income residential housing in these eviction cases, but the repossessed lands have not been used for the stated purpose of providing improved housing for the region’s poor and were instead slated for commercial construction that provided no benefits for the dispossessed residents\(^\text{19}\). In Corazon de Jesus, the residents were evicted from their homes of over sixty years to make way for the construction of a lavish city hall and other commercial developments\(^\text{20}\).

13. The affected residents of Corazon de Jesus were given no personal notice of the pending eviction. An inadequate public notice was posted at the Barangay Hall of Corazon de Jesus on December 5, 2011, but most residents were unaware of the notice. On January 6, 2012, authorities posted a second inadequate notice at the City Hall of San Juan stating the residents had three days to vacate the community\(^\text{21}\). Compounding the procedural inadequacy of delivering the notice directly to the residents, the notice posted on January 6, 2012 lacked specifics, including the names and addresses of those targeted for eviction\(^\text{22}\). These publicly posted notices do not satisfy any definition of appropriate, adequate and timely notice to eviction: North Bay Moderization; August 11-12 2010 Brgy, Mariana, New Manila, Quezon City: 200 evicted families, Reason for eviction: Private Land; April 28, 2011 Laperal Compound, Guadalupe, Makati City: 4,000 evicted families, 19 injured; February 23-25; February 28; March 1-2; May 5-6; May 11-12; May 17-18 2011 Interior Dama de Noche, Kadiwa, Brgy., San Roque, Navotas City: 466 evicted families, 22 injured, Reason for eviction: Government Project; 2009-2011 Philippines National Railway Site, Muntinlupa (homeless families living in make shift tents): 23,000 evicted families; 355 families remain in make shift tents, 150+ families in make shift tents face eviction, Reason for eviction: Government Project, Railway; 2008-2012 Brgy, Commonwealth Batasan, Holy Spirit, Payatas, National Government Center, Quezon City: 3,000 evicted families, Reason for eviction: Re-blocking, Selling of Lot.


\(^\text{19}\) Demolition Watch, Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing, Feb. 6 2012, available at: http://demolitionwatch.wordpress.com/2012/02/06/second-formal-complaint-of-corazon-de-jesus-residents-filed-to-the-united-nations-special-rapporteur-on-adequate-housing/

\(^\text{20}\) Id.

\(^\text{21}\) Id.

\(^\text{22}\) Id.
residents, nor did they provide any opportunity for the residents to present their opposition to the demolition or to participate in discussions surrounding relocation.

14. Without any further efforts to provide individual notice to area residents, on the morning of January 11, 2012, police blocked residents from entering their homes, and police and demolition teams were posted all around the community.²³

15. Resisting the forcible eviction from their homes, residents organized a peaceful human blockade to prevent the demolition of their homes. Despite their peaceful tactics, policemen armed with assault rifles and tear gas violently attacked the residents. Fire trucks were used to blast the residents with water. Police fired their weapons and were able to break the human barricade by dispensing six to ten canisters of tear gas into the residents.²⁴

16. The police and demolition team managed to raze more than 120 homes, rendering 121 families homeless. In the face of opposition of the local residents to their forcible relocation and destruction of their neighborhoods, the authorities achieved their goals through illegal arrests and brutality, causing multiple injuries. Eighteen residents were illegally arrested, including minor children. Twenty-three residents were brutalized by the policemen and demolition teams and documented their injuries; this number also includes minor children. The number of victims exceeds the number of documented cases.²⁵

17. In addition to the families who have been violently and illegally evicted, more than 1,000 families in Corazon de Jesus are facing similarly brutal eviction tactics by the government.²⁶

18. The property on which houses were built was a historically public land considered a safe area, and most of the residents have lived there since the 1950s.²⁷ The current government refuses to implement the proclamation by a prior President awarding the land to the residents and have conducted a series of violent evictions like the one in Corazon de Jesus.²⁸ Instead of honoring the government’s prior commitment to the residents, it pursued a legal strategy to legitimize their dispossession.²⁹ With the government and the Courts denying the residents their legitimate claim to the land, the residents have no recourse to contest their eviction.

²³ Id.
²⁴ Id.
²⁵ Id.
²⁷ Demolition Watch, Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing, Feb. 6 2012, supra footnote 19.
²⁸ Id.
19. In Corazon de Jesus, people were violently evicted from locations designated as safe areas and forced to relocate to locations declared as danger areas, where they face inadequate housing, employment, and social services. Dislocated residents are forced to incur additional expenses for transportation and other basic needs.\(^{30}\)

20. For example, one wholly unacceptable relocation site was Lupang Arenda. The lack of adequate housing and employment opportunities is compounded by its designation as a danger zone by the Philippines Department of Environment and Natural Resources.\(^{31}\) In October 2009, Lupang Arenda was given emergency aid by the American Red Cross for a typhoon that had flooded the area.\(^{32}\)

**B. Violation of Article 2(3) of the Covenant**

21. Article 2(3) states that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.\(^{33}\) As the government authorizes and carries out the violent evictions under color of law, no remedy is available to the residents of Barangay Corazon de Jesus in the domestic courts. Residents are provided with general, publicly posted notice shortly before the intended evictions are slated to begin, and are not individually informed of their pending eviction, nor are they provided any meaningful forum in which to contest the eviction. As soon as the residents are violently removed, their homes are demolished. The very short timeline from publicly posted notice to demolition provides them with no effective remedy or recourse as there is no waiting period in which they can appeal the evictions. Efforts by residents who attempt to access legal remedies to vindicate violations of their rights to their homes are summarily denied by the government who evicted them.\(^{34}\)

22. Compounding the lack of access to legal remedies to contest the evictions, the citizens of citizens of the Philippines are not compensated for the loss of their home, are provided with inadequate relocation assistance, and after their evictions are left in diminished circumstances with no recourse.\(^{35}\)


\(^{31}\) Id.


\(^{34}\) Municipality of San Juan, Metro Manila v. Corazon de Jesus Homeowners Association et al, G.R. No. 125183, (S.C., September 29, 1997) (Phil).

C. Violation of Article 6 of the Covenant

23. The right to life enunciated in Article 6 of the Covenant prohibits the arbitrary deprivation of life. The Human Rights Committee considers that States have the "supreme duty" to prevent the arbitrary loss of life. This is of paramount importance. The duty of the State is not only to prevent deprivation of life through criminal acts but also to prevent the arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity.  

24. To date, three people have been killed in the Philippines as a result of the violent forced evictions in the Silverio Compound, San Dionisio, Paranque and Pangarap Village, Caloocan. Most recently, on April 23, 2012, Arnel Leonor, a resident from the Silverio Compound died due to a gunshot wound to the head during a bloody and violent demolition. The state itself was responsible for depriving its citizens of the right to life in an arbitrary manner in contravention of Article 6 of the Covenant.

D. Violation of Article 7 of the Covenant

25. Article 7 of the Covenant explicitly prohibits torture or cruel, inhuman or degrading treatment or punishment. Its purpose is to "protect the integrity and dignity of the individual." The Human Rights Committee accepts that many acts that may fall under the umbrella of torture. It is impractical to draw sharp distinctions between the various prohibited forms of treatment or punishment. These distinctions depend on the kind, purpose and severity of the particular treatment. Acts from corporal punishment to solitary confinement could be considered as inhuman and therefore contrary to Article 7.

26. In an attempt to resist the eviction, residents of Corazon de Jesus organized a peaceful blockade to prevent the demolition of their homes. In response the demolition teams threw stones at the human barricades of residents followed by water bombs. The police also hurled teargas at the gathering of residents to break the barricade. Hundreds of policemen and demolition teams were deployed to disperse and arrest residents who were simply asserting their right to stay in their communities.

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36 Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994)
37 Id.
38 Human Rights Committee, General Comment 7, Article 7 (Sixteenth session, 1982), U.N. Doc. HRI/GEN/1/Rev.1 at 7 (1994)
39 Id.
In Corazon de Jesus, San Juan City during the period January 25, 2011 to January 11, 2012, 86 people were injured by demolition teams and policemen. The policemen were armed with M14 and M16 rifles and 45 caliber guns as well as water bombs and tear gas. On January 11, 2012, 23 individuals were injured when the demolition team and policemen forced their way onto the community with the use of a bulldozer. Eighteen persons were illegally arrested; of these six were minors and one was a senior citizen. Their injuries range from beatings to causalities from the teargas. Aside from using a bulldozer and a fire truck, the demolition team threw stones at the human barricades of residents followed by water guns. The policemen threw 6-10 pieces of teargas and also beat the residents with their clubs and fired guns aimlessly to threaten the resisting residents. The policemen and SWAT team present were armed with M14 and M16 rifles and 45 caliber handguns.

The Committee imposes a duty on public authorities to ensure protection against inhuman treatment. Twenty eight residents and supporters were illegally arrested during and after the confrontation. Those that were arrested were beaten by the policemen and demolition team. The policemen continued to harass and threaten the affected residents directly after the demolition, which occurred on January 11 through the evening of January 13, 2012.

Article 7 not only protects persons who have been arrested or imprisoned but also protects those who are in the care of others, such as patients in medical institutions. These evictions, and subsequently the brute force and displacement of family homes, are sanctioned by the government. The government is charged with protecting it citizens from violence much like a doctor has a duty to protect his patients from unnecessary harm. The government constant threat of eviction and the violence and use of absolute force that accompanies it clearly rises to the level of torture.

E. Violation of Article 10 of the Covenant

Article 10 states that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The treatment of the residents of Corazon de Jesus on January 11, 2012 deprived them of the human dignity to which they are entitled. On that day, twenty three residents documented the injuries they sustained during the violent eviction process, and many others were injured as well. Among those injured were a 43

41 Demolition Watch, Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing, Feb. 6 2012, supra footnote 19.
42 Demolition Watch, Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing, Feb. 6 2012, supra footnote 19.
44 Human Rights Committee, General Comment 7, Article 7 (Sixteenth session, 1982), U.N. Doc. HRI/GEN/1/Rev.1 at 7 (1994).
45 Id.
46 International Covenant on Civil and Political Rights (entered into force 23 March 1976).
year old male with a neck wound, a sixteen year old with a head wound, and a seventeen year old with both left and right wounded legs. Brutal treatment by the government in the process of carrying out the evictions deprived the residents of Corazon de Jesus of their inherent right to be treated with dignity and humanity, in violation of Article 10.

F. Violation of Article 17 of the Covenant

31. Article 17 of the Covenant provides for the right of every person to be protected against arbitrary or unlawful interference with his or her home. In the view of the Human Rights Committee, this right is required to be guaranteed against all interferences and attacks whether they emanate from State authority [or others.].\(^47\) The view of the international community on forced evictions is clear. The UN Commission on Human Rights states that the practice of forced evictions constitutes a gross violation of human rights.\(^48\) The Global Strategy for Shelter to the year 2000, adopted by the UN General Assembly, declares that the right to adequate housing is universally recognized by the community of nations. Governments [must] accept a fundamental obligation to protect and improve houses and neighborhoods, rather than damage or destroy them.\(^49\) Agenda 21 further supported this standard, stating that people should be protected by law against unfair eviction from their homes.\(^50\) In 2005, the Human Rights Committee found that the practice of forced evictions arbitrarily interferes with the Covenant rights of the victims of such evidence, especially their rights under Article 17 of the Covenant.\(^51\)

32. In the metropolitan area surrounding Manila alone, more than 50 incidents of violent evictions have been documented. These evictions took place in nineteen communities and affected more than 16,000 families.\(^52\) During the period January 2011 to January 2012, more than 240 families from Corazon de Jesus have been violently and forcibly evicted from their homes. Many of these forced eviction incidents were arguably under color of law due to court orders, while other evictions were carried out without the imprimatur of legal authority. The victims of the violent displacements generally come from poor families who lack the resources to defend their rights in courts.

33. The expression ‘arbitrary interference’ notes that the protection of Article 17 extends to interference provided for under the law. According to the Human Rights Committee the introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by the law should be in accordance with the provisions, aims and objectives of the

\(^{47}\) Human Rights Committee, General Comment 16, Article 16 (Twenty-third session, 1988), U.N. Doc. HRI/GEN/1/Rev.1 at 21 (1994)

\(^{48}\) Commission on Human Rights Resolutions 1993/77 (10 March 1993)

\(^{49}\) UN General Assembly (Resolution 43/181. 20 December 1988)

\(^{50}\) Human Rights Committee, General Comment 16, Article 16, supra footnote 47.


Covenant and should be, in any event, *reasonable in the particular circumstances*.\(^{53}\) (Emphasis added). Although the government posted a general notice of eviction at Barangay Hall in Corazon de Jesus on January 6, 2012, individual notice was not provided to the affected families. A second notice was posted from the City Hall announcing that the families had only three days to vacate the community, although *no name and place as to where the demolition will take in the said notice*.\(^{54}\)

34. The International Covenant on Economic, Social and Cultural Rights has noted that *the right to adequate housing, as derived from the right to an adequate standard of living, should not be interpreted in a narrow or restrictive sense but should be seen as the right to live somewhere in security, peace and dignity*.\(^{55}\) The United Nations Habitat Agenda states that *protecting all people from and providing legal protection and redress for forced evictions that are contrary to the law, taking human rights into consideration; when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided*.\(^{56}\)

35. As noted above in paragraph 19 and referenced again herein, the alternative solutions being provided to the families evicted from Corazon de Jesus are deplorable at best. The residents were relocated to sites in Lupang Arenda previously declared a danger zone by the Philippines Department of Environmental and Natural Resources.\(^{57}\) The residents were given an entry pass for two years, however when they arrived at the site they found that no houses had been built. The residents that were relocated to Lupang Arenda face eviction again as their two year contract has expired.\(^{58}\) Another relocation site is located in the Rodriguez, Rizal province. The residents relocated to this province have no access to work, facilities and social services such as hospitals and education, must subsist in substandard housing, and incur additional expenses for transportation and other basic needs, such as a monthly rent to occupy a small piece of land. Many parents were forced to withdraw their children from school. Many dissatisfied residents return to their prior communities as they consider Corazon de Jesus to be more habitable.\(^{59}\) Many residents have opted to stay in Corazon de Jesus as they have no other viable options left. It has been reported that they *live in makeshift tents, as small as animal cages, with no water and electricity*.\(^{60}\)

\(^{53}\) Human Rights Committee, General Comment 16, Article 16, *supra* footnote 47.


\(^{58}\) As this report was being prepared the residents of Lupang Arenda faced no imminent threat of eviction.


\(^{60}\) Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, The Philippine Star, March 20, 2012,
IV. **Recommended Concluding Observations**

36. The State party should implement a moratorium on all evictions until a proper legal framework is in place that ensures that evictions are only undertaken consistent with international human rights obligations.

37. The State party should develop transparent policies and procedures for dealing with evictions and ensure that evictions from settlements do not occur unless those affected have been consulted and appropriate resettlement arrangements made.

38. The State party should ensure that all alleged cases of torture, cruel, inhuman or degrading treatment and disproportionate use of force by law enforcement officials are thoroughly and promptly investigated by an independent authority, and that those found guilty are punished with sentences that are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families.

39. The State party should ensure promptly investigate reports of unlawful killings by police law enforcement officers and prosecute those found responsible.