JOINT SHADOW REPORT TO THE UNITED NATIONS
HUMAN RIGHTS COMMITTEE

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Submitted by:
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PROFILES OF SUBMITTING ORGANIZATIONS

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

The Global Initiative for Economic, Social and Cultural Rights is a 501(c)(3) non-profit, non-governmental organization registered in the United States in 2010. It seeks to implement a concerted strategy for economic, social and cultural (ESC) rights advocacy aimed at improving the lives of the world’s poor. The GI-ESCR has a special interest in advancing women’s land and property rights, and has designated this area of work as one of its three strategic priorities. These rights have a special transformative potential for women, who represent the poorest of the world’s poor, and who globally have the least access to productive resources. Not only are these rights key to ensuring that women’s immediate material needs are met, but they help to fundamentally reshape unequal gender power relationships. Indeed, for women, advancement on these critical issues is more than about poverty alleviation, it is about uplifting women’s status in a fundamental way and about ending women’s inequality on the basis of gender.

The Grassroots Women’s Empowerment Center (GWEC)

The Grassroots Women’s Empowerment Center or GWEC is a non-profit, non-governmental organization registered with the Securities and Exchange Commission (SEC) in 1992. It was established primarily to address the need to uplift the situation of women who are disadvantaged economically, culturally and politically in the urban poor communities. Inspired by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Republic Act 7192 (the Women in Nation-Building Act), GWEC seeks to assist women to rise from the limitations imposed upon them by the society, and regain their self-worth as women and as person who have equal rights, as men, in pursuit of their development.

The mission of GWEC is to serve as catalyst for women’s empowerment by setting up viable and sustainable structures that will work and promote for women’s rights towards gender and development.

Its goals encompass all aspects of community development:

1. to promote gender awareness among women and men in urban poor communities through various education and training activities;
2. to establish effective coordination and linkages with various local government units, NGOs, in setting up structures at the community level to promote and protect the rights of women and children and implement projects, programs and services that respond to their needs;
3. to influence local government units and ensure women’s active participation at the village and city level to formulate and implement gender responsive policies, ordinances, projects, programs and services in response to women’s issues and needs especially in the urban poor communities; and
4. to provide partner individuals and women’s organizations adequate access to livelihood, training skills development opportunities in order to improve their economic condition and minimize/eliminate the need to borrow money to usurers.
A. ARTICLES 7, 17 & 26 – FORCED EVICTIONS

1. The United Nations Committee on Economic, Social and Cultural Rights has defined forced evictions as “the permanent or temporary removal against their will, of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” The Committee has also recognised that women deserve special consideration and assistance in cases of evictions: “Women …,” the Committee acknowledged, “suffer disproportionately from the practice of forced evictions. Women in all groups are especially vulnerable given the extent to statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless.”

2. The Human Rights Committee has previously concluded that forced eviction violates Article 17 of the Covenant, and at times may rise to violations of Article 7 as well. For instance, in its Concluding Observations on Kenya in 2005 the Committee found violations of Article 17 (protection from unlawful or arbitrary interference with the home) because of forced evictions. It did so again in its Concluding Observations on Israel in 2010, where it also found that forced eviction could rise to violations of Article 7 (prohibition on cruel, inhuman or degrading treatment or punishment). In those same Concluding Observations, the Committee also found violations of Article 26 (equal protection of the law).

3. In it’s 2008 Concluding Observations on the Philippines, the United Nations Committee on Economic, Social and Cultural Rights noted with concern that “an estimated 16.5 million, roughly 30 per cent, of the urban population continue to live in informal settlements and slums, sometimes built on riverbanks, railroad tracks and other high-risk areas, with no or limited basic infrastructures and services, without legal security of tenure and under constant threat of eviction.”

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2 Ibid.
4. Furthermore, the Committee at the time noted that it “regrets that most of its previous recommendations relating to the prevention of illegal forced evictions (E/C.12/1995/7, paras. 31 and 32) 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 their properties” (UN Doc. E/C.12/PHL/CO/4).

5. Thousands of these families have been evicted from their homes in Manila, Philippines, to make way for the development of the national railway line, a project sponsored by the Government and supported by foreign development banks. Under the administration of President Arroyo, Memorandum Order No. 46 was issued in December 2001 instructing the Housing and Urban Development Coordinating Council (HUDCC) to “relocate and provide alternative housing sites for the informal dwellers within the Philippine National Railways (PNR) right-of-way in all areas to be affected by the PNR rehabilitation and modernisation”. HUDCC issued a Memorandum Order No. 4 designating the National Housing Authority (NHA) as the lead agency to oversee the clearing of the occupants from the PNR rights-of-way. It also directed the PNR, the Department of Transportation and Communications (DOTC), the National Home Mortgage Finance Corporation (NHMFC) and concerned local government units to provide complementary support to the NHA. President Arroyo issued Administrative Order No. 111 in November 2004, designating the NHA as the lead agency in the implementation of the rail-related resettlement programme.

6. There are conflicting versions of what has occurred during the eviction process, but reports indicate that in at least some of the communities the evictions have been marked by the following characteristics: lack of full and clear consultation with affected households; lack of a proper notice period; coercion, particularly with respect to relocation; and resettlement before the relocation sites were habitable. Some of the evictions have involved physical violence – including against women, and a number of residents interviewed have indicated that they were required to sign a waiver relinquishing their rights to procedural protections. The Government of the Philippines has not ensured the availability of appropriate legal remedies to persons affected by the relocation scheme.

7. According to the NHA, 90 per cent of the 27,000 relocated families moved voluntarily. However, as noted by the Archbishop of Manila in a letter to the Vice President, many evictees claim to have been told by Government officials that they would not be allocated a plot at the designated relocation site if they did not volunteer to demolish their house and move immediately. Furthermore, some evictees were asked to sign waivers relinquishing their legal right to a 30 day eviction notice period, and overriding a court order against demolition. In some cases, the content of the waiver was not explained to evictees. With literacy levels very low amongst this population, the individuals often did not understand what they were signing. Having signed the waiver, a resident can be relocated even if:
• relocation occurs within the 30-day notice period;
• there is bad weather at the time of relocation;
• relocation occurs outside permitted hours (between 8.00 a.m. and 5.00 p.m. on weekdays); and
• there is a restraining order from the court against demolition.

8. Serious concerns have also been raised as to whether the railway evictions and relocation scheme were, in fact, voluntary. One resident in Caloocan City, Metro Manila (District 1) described the experience of eviction in this way:

SWATs were around during the demolition itself. Our group was still having a meeting when they arrived. We tried to put up a barricade, but firemen hosed us down with water. People began scrambling toward their houses because the demolition team started tearing houses down, and even though people hadn’t gathered and packed their belongings they just took them all outside. Some of the residents were still asleep; a bakery was still in the midst of cooking bread when the roof was removed. As it was, people simply gathered their belongings and placed them in the middle of the tracks and covered them to prevent them getting wet. Demolition of houses occurred almost every day, and about 20 houses each day were being torn down.

9. A number of affected families have stated that they were bullied into demolishing their own homes by public officials. They were told that if they refused to dismantle their own homes, Government demolition crews would do so and the affected households would not be able to save what was left of their housing materials. Some were told that they would forfeit any possibility of relocation if they did not destroy their own housing. Several communities, such as those in Barangay Batia, Bocaue, Bulacan and Southville, Cabuyao, Laguna, reported having been evicted at the height of typhoon season.

10. The location of the resettlement sites, at some distance from Manila or other places of employment, coupled with inadequate and unaffordable transportation options, has meant that many individuals have lost their jobs. The loss of jobs and the lack of alternative livelihood opportunities have brought about extreme poverty for those who were already some of the country’s poorest and most disadvantaged. Investigations by local NGOs have found that in some relocation sites there is limited electricity, no potable water and no sewage systems. Additionally, some of the relocation camps lack basic services such as schools and hospitals, meaning high transportation costs to families if these need to be accessed.

11. It has also been highlighted that one relocation site was set up adjacent to a functioning landfill, exposing the relocatees to toxic levels of pollution and waste. Recent reports of disease and death have confirmed the severity of this situation. Given this, it is perhaps not surprising that many of the relocation sites are either under-occupied or have been vacated by large numbers of the population. Evictees are choosing not to move to the sites or are abandoning the sites after arriving there because of the lack of economic opportunities and because of the debt burden imposed upon them by having to build a new house and pay back a mortgage over many years.
B. ARTICLES 2, 3, 7, 17 & 26 – FORCED EVICTIONS AND THEIR IMPACT ON WOMEN

12. The endemic practice of forced eviction and the subsequent relocation of railway communities in the Philippines have had discriminatory effects on women, exacerbating their position of social and economic inequality. In the context of forced eviction, a narrow interpretation of the concept of gender discrimination might lead to the conclusion that gender discrimination arises only if women are directly targeted by the eviction - that is, if the case was that women were forced to move from the railway lines while men were allowed to stay. This, however, represents a misguided understanding of discrimination as ‘being treated differently.’ Under international human rights law, a more appropriate understanding of gender discrimination focuses on whether the effects of a law, policy or programme, such as this forced eviction, discriminates or causes disadvantage. While the relocation scheme discussed in this shadow report has applied to all who were evicted from the railway lines, it has had a particular and disproportionate impact on women. The relocation scheme failed to consider women’s social and economic conditions prior to the eviction and what they would be once relocated, and as such the scheme has failed to meet women’s particular needs. It has, in fact, exacerbated their inequality. The scheme has increased women’s poverty and undermined their independence and autonomy while worsening their living conditions and adding to the emotional and practical burdens on them within the household.

13. Over the years, the United Nations’ Special Rapporteurs on Violence against Women and on the Right to Adequate Housing have also addressed women’s experiences violence within the context of forced eviction. In 2000, the then Special Rapporteur on Violence against Women (Radhika Coomaraswamy) observed:

> Violence occurring in relation to forced eviction starts before the eviction process. Psychological stress on learning about the eviction can destabilize the family atmosphere and cause emotional trauma. Sometimes, rape is used by the evictors to break resistance. During the eviction, verbal abuse and beatings, rape and even killing are common. The destruction of the home and the destruction of property are further traumatic experiences. The destruction of the home is often equivalent to the destruction of life; everything that was accomplished so far is destroyed. Coping with injuries, the death of family members, inadequate housing or even homelessness, poverty, lack of community support when relocated away from the home town are all possible burdens that have to be taken on by women after eviction.

14. Later, in 2009, the United Nations Special Rapporteur on Violence Against Women at the time (Yakin Ertürk) reported that, “The impact of these forced evictions, often by militia or armed forces, is profoundly devastating for women and is correlated with heightened rates of physical, psychological and economic violence against women before during and after the evictions. This is true both in terms of violence against women at the

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hands of state authorities, non-state actors, community members, as well as violence against women by their partners or relatives within the home. Similar concerns have been voiced by the former United Nations Special Rapporteur on the Right to Adequate Housing (Miloon Kothari), whose global consultations revealed that within the context of forced evictions women were often beaten by the authorities, arrested, morally abused, inhumanly transported, and even put in arbitrary detention.

15. Forced evictions in the Philippines have been no exception. Indeed, the Northrail-Southrail project has had a severe impact on women. More women than men reside in the relocation sites on a consistent basis, so they are most directly affected by the conditions of the relocation sites. Women’s experiences of relocation are also unique because of their social and economic status as women. This findings presented here are based in part on GWEC’s qualitative research with women in six relocation sites: i) Northville 1, Towerville, San Jose del Monte City, Bulacan; ii) Northville 5, Barangay (village) Batia, Bocaue, Bulacan; iii) Northville 8, Barangay Bangkal, Malolos, Bulacan; iv) Northville 4, Barangay Lambakin, Marilao, Bulacan; v) Southville I, Barangay Marining, Cabuyao Laguna; and vi) Southville II, Barangay Aguado, Trece Martirez, Cavite.

16. To understand how the relocations sites are experienced and perceived by the women of the railway, a snapshot of life along the railways may shed some light. There is little doubt that the houses along the railway lines were precarious, often of extremely poor quality and made with impermanent materials such as tin and scrap metal — certainly not in keeping with adequacy requirements under international human rights law. However, the women of the railway often referred to their former homes as ‘communities.’ They were perceived as places of relative independence and autonomy for women, where they could easily earn an income through informal-sector activities and where there was less discrimination against them. Men often had employment, but when employment was scarce there was always some other means of making money. Houses had access to potable water, sufficient food and electricity, health-care services were available at low cost and children could go to school and play. The railway communities, though precarious and materially inadequate, were also places of security that offered some hope for the future rather than fear and anxiety about where the family’s next meal would come from.

17. In every community that participated in the research, women indicated that, in general, life along the railways before eviction had been easier and more prosperous than it is in the relocation area. Many have had to give up the jobs they had when living on the rails. Many women were engaged in informal sector work and odd jobs that were based in their former communities in the city, while others were formally employed. All the data from over a number of years across the areas shows that all of the relocated families are becoming increasingly poor in the relocation sites. Women have been stripped of their previous economic independence and relative security, and they have become ‘just housewives,’ with

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no means of earning an income. In Towerville, they resorted to scavenging in nearby ‘garbage mountains’ or begging just to be able to eat a decent meal for a day. Already, 60 per cent of the original relocatees in Towerville have given up the ‘security of tenure’ offered by the relocation site to go back to the city centres to look for employment and another place to squat.

18. In Northville 8, Malolos, all of the women respondents agreed that they had lived more decently along the railways and that their income there had sufficed for their basic survival needs. Some even noted that while living on the rails their families were able to generate as much as 2,000 Philippine Pesos (Php) per day by just doing various odd jobs. Without a source of income now, many women wonder how they will make their monthly mortgage repayments of Php200. One prime reason for their present predicament is the distance and cost of transportation to and from the city centre to get to work. The minimum fare between the bus terminal and the workplace and back again is Php50–80, which, combined with other necessary expenses, often means that families are not able to make ends meet. Despite assurances from the Government to the contrary, the relocation sites lack employment and livelihood opportunities for residents, and women have been particularly affected by this. Expensive and time-consuming transportation to places of employment is often incompatible with women’s child-care and household responsibilities.

19. In Northville 5, Bocaue, women are forced to look for seasonal odd jobs to survive. Some women engage in rag-making and doormat-making, (even as they do not have sewing machines for this very basic livelihood project), selling and rationing mineral water, vending flower garlands and providing a laundry service. Men often buy and sell bottles and junk or undertake vulcanising (rubber-processing) services. Others have been able to find some work in a nearby rice mill as contractual workers. Income generated from these odd jobs is not enough to sustain a family.

20. In Southville I, Cabuyao and Towerville in Bulacan, women reported that increased poverty has resulted in many families eating only once or twice a day. According to the Urban Poor Associates (UPA), the incidence of hunger in the relocation sites was twice that experienced by communities living adjacent to the railway tracks. Malnutrition in children is becoming a serious problem, and women often go without food so that their children can eat. One respondent explained: “We save food from whatever is left of spoiled rice and make rice porridge out of it. … We remove the spoiled parts and leave the edible portion at the middle and boil it to make porridge. We did not experience this in our previous home in Makati.” In both Southville I, Cabuyao and Northville 5, Bocaue, children who go to school often do not have any food allowance, which means they cannot eat during the day. They complain of hunger pangs and cannot concentrate on their studies.

21. The scarcity of food invariably means that women – particularly those with children – are going without, compromising their own health for that of their children and families. This will have long-term health implications for those women and perhaps also for their children. It also exacts a heavy emotional toll on women, who feel it is their responsibility to protect their children from malnourishment, hunger, dehydration and, more broadly, extreme poverty. Part of women’s predicament is their need for cheaper fuel. In the relocation areas, trees are destroyed in clearing and ‘developing’ the area, making the women poorer because they have to buy fuel from expensive sources.
22. Lack of potable water was identified as one of the most pressing issues confronting women in their new communities. For example, in Northville 8, Malolos, despite assurances from the Government that potable water would be available at the relocation site, all that was installed was a shallow well linked to an old irrigation system that sucked in stale waste water and debris. What came out from the water pipes was basically sewer water, yellowish, brown or black in colour, with a strong odour. The Government claimed that the water installed in the relocation site came from the Manila Waterworks Sewerage Authority and is therefore chlorinated and safe. Cases of diarrhoea have occurred since the relocates were transferred to the site two years ago, but no investigation has been initiated by the Government. Women complain that to be safe they are forced to buy bottled water for drinking and cooking, which is costly (in Southville I, Cabuyao, for example, residents regularly spend P300 per month on bottled water alone.) The odorous water from the well is still used for bathing, and women complained that if they did not use shampoo, their hair smelled like a sewer after washing. Several women expressed a sense of shame that they did not even have the means to attend to their own personal hygiene. They also indicated that they suffer anxiety in relation to the responsibility they shoulder for providing their families with potable water – something that is essential for everyone’s livelihood. The pollution and inadequate water and sewage systems at the relocation sites are known to have brought a number of diseases into the communities that live there, again placing a greater burden on women to provide care.

23. In each of the communities involved in the research, the women complained that they do not have any legal documentation that proves their title to their land and ownership of their new homes or that sets out the terms of their mortgage agreements with the Government: “Yes, it is true that we are no longer squatters, but still we do not have any paper or document that says we are indeed legitimate homeowners.” This has clearly caused a feeling of insecurity among the women, but the NHA has not offered any reasons as to why these papers have not been provided to the relocatees. Relocatees had thought that one of the certain benefits of relocation would be legal title to their land and homes, but this now seems illusory.

24. In addition, violence against women is increasingly becoming part of women’s realities in the relocation sites. While violence against women is ultimately a reflection of patriarchy and not of poverty, women noted that relocation sites exacerbate their situation of inequality and vulnerability to violence. The difficult situation that families are in increases men’s violent behaviour. High levels of male unemployment, the erosion of traditional social support networks and increased alcohol consumption all combine to make the relocation sites more dangerous places for women than their former homes.

C. ARTICLE 25 - THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS

25. The relocation scheme for the Northrail-Southrail Linkage Project falls under the authority of the NHA, and the NHA’s activities are governed by the Urban Development and Housing Act (UDHA) of 1992. Section 28 of the UDHA is the Government’s response to its international human rights obligations regarding forced evictions. It requires the State
to respect the housing rights of residents by avoiding eviction and demolition wherever possible. When eviction is unavoidable, the UDHA “requires, among other things, a 30-day prior notice, adequate consultation with the duly designated representatives of the families affected and the receiving communities, adequate relocation (whether permanent or temporary) and the presence of Government officials during the entire exercise.”

26. Evidence indicates that the NHA’s scheme and its implementation are not in keeping with the human rights principles and values articulated in the UDHA. According to a number of observers and NGOs, the NHA pressured residents into signing away their rights by threatening that if they did not agree to ‘voluntary’ relocation provisions, they would receive nothing at all. The UDHA requires that the relocatees be consulted about their place of relocation, however the NHA process was far from participatory. For example, since November 2006 approximately 4,000 families along the Sampaloc (City of Manila) stretch of the railroad affected by the Southrail project have lobbied the Government to be resettled in Rodriguez municipality as it is nearer to their sources of livelihoods and jobs and has accessible services such as water, electricity, schools, clinics and transportation. They are instead required to move to distant resettlement sites such as Southville II in Trece Martirez City.

27. Households now living in Barangay Batia, Bocaue, Bulacan reported that they were not properly consulted in advance of the eviction, nor were they provided with due notice: their houses were demolished just one week after signing the loan agreements for new houses under the relocation scheme. In many instances households and communities were evicted before the relocation sites were serviced with water or electricity, before houses were built or before food was available. As a result of this incremental development policy, families were forced to live in tents without basic amenities, causing health problems amongst many residents.

D. DRAFT CONCLUDING OBSERVATIONS FOR THE COMMITTEE TO CONSIDER:

28. The Committee expresses its deep concern over the discriminatory impact of forced evictions on women and urges the State party, as a matter of priority, to

(a) Cease the practice of forced eviction, and put into place effective procedural protections against forced eviction, as consistent with international human rights standards;

(b) Ensure the effective implementation of the Urban Development and Housing Act (UDHA) of 1992 (Republic Act No. 7279) and other laws and regulations prohibiting forced evictions and demolitions;

(c) Reinforce the mandate of the Presidential Commission for the Urban Poor “as the sole clearing house for the conduct of demolition and eviction,” in accordance with Executive Order No. 152 of 2002;

(d) Ensure that affected residents and communities, including women, are able to meaningfully and effectively participate in the design, implementation, monitoring and evaluation of ‘development’ and ‘urban
renewal’ projects, and are able to offer alternatives. Affected residents and communities, including women, must be adequately informed of their legal rights to be protected against forced eviction in this regard;

(c) Ensure that women forcibly evicted from their properties be provided with full restitution, compensation and/or offered adequate relocation, in accordance with section 28 of the UDHA; and

(f) Guarantee that relocation sites meet adequate housing rights standards under international human rights law and are provided with basic services (including drinking water, electricity, washing and sanitation facilities) and adequate facilities (including schools, health care centres and transportation) at the time the resettlement takes place.