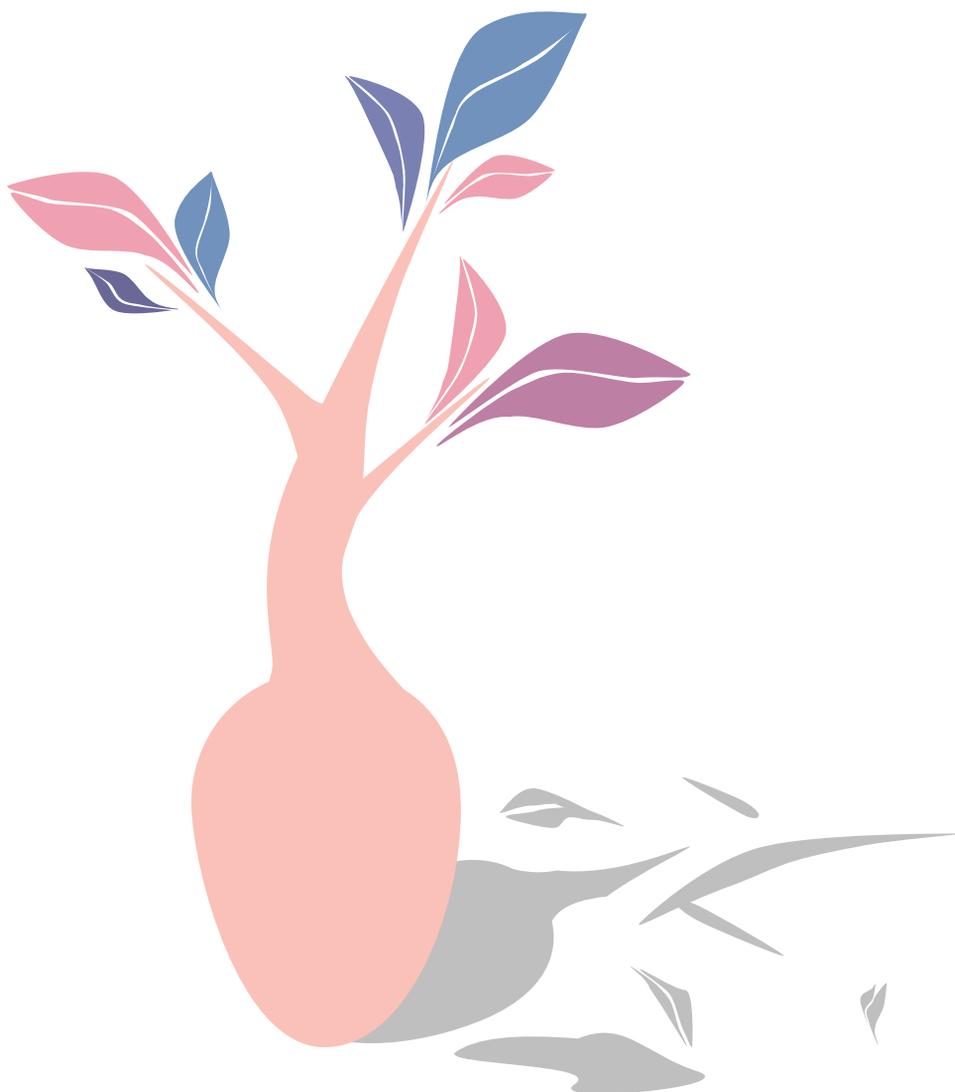


CEDAW SHADOW REPORT

INDIGENOUS WOMEN AND MINING IN THE PHILIPPINES

July 2016



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CEDAW CONCLUDING OBSERVATIONS ON THE COMBINED SEVENTH AND EIGHTH PERIODIC REPORTS OF THE PHILIPPINES

IMPRINT

Shadow Report on Indigenous Women and Mining in the Philippines

presented at the 64th Session of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in Geneva, Switzerland in July 2016

AUTHORS

Franciscan Solidarity Movement for Justice, Peace and Integrity of Creation

(FSMJPIC) LILAK (Purple Action for Indigenous Women's Rights)

Alyansa Tigil Mina (ATM)

EDITING AND LAYOUT

Martha Merillo

Susan Corpuz

Manila, Philippines

July 2016



**Franciscan Solidarity Movement for
Justice, Peace and Integrity of Creation
(FSMJPIC)**

INTRODUCTION

This shadow report is a submission by Franciscans International (FI), a faith-based International Non-Governmental Organisation (INGO) with General Consultative Status with the ECOSOC Council of the United Nations (UN). Franciscans International was founded in 1982 to bring to the international level of the United Nations the concerns of the most vulnerable and to advocate for a stronger protection of all human beings' rights.

Alyansa Tigil Mina (ATM) is a coalition of mining-affected communities and their support groups, including non-governmental organizations, faith-based groups, academic institutions, and other groups collectively challenging the promotion of destructive large-scale mining in the Philippines. ATM works to protect Filipino communities and natural resources that are threatened by large-scale mining operations. Human rights are a central basis for ATM's work, particularly in defending community and individual rights. The alliance aims to shift the policy framework on extracting minerals in the Philippines, from simply "extracting and profiting from mining minerals" to "mineral management towards national industrialization". ATM also believes this shift will drive local sustainable development, promote resilient communities and facilitate national industrialization.

LILAK (Purple Action for Indigenous Women's Rights) is a collective of women's rights advocates and feminists in the Philippines, who aim to contribute in the building and raising awareness and understanding of rural and indigenous women on their rights, their roles, and their potential. Their activities include: formation and deepening of analysis of rural and indigenous women's situation and factors affecting it, development and advancement of women's skills in protecting their rights.

This shadow report highlights key concerns related to the human rights of women as stipulated in the United Nations Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW). The data and information included in the present submission come from various sources, and include research, information and data collection from FI, LILAK and ATM and their partners in the Philippines. The document focuses mainly on the issue related to **the impact of natural resources exploitation, specifically large-scale mining, on human rights especially those of the indigenous women.**

CONTEXT:

INDIGENOUS WOMEN & MINING IN THE PHILIPPINES

The mining industry has led to an increased displacement of indigenous communities and various human rights violations. In 2002 the UN Special Rapporteur for the human rights and fundamental freedoms of indigenous peoples, after his visit to the Philippines, highlighted this point: “Of particular concern are the long-term devastating effects of mining operations on the livelihood of indigenous peoples and their environment. These activities are often carried out without their prior, free, informed consent, as the law stipulates”¹. However, with patriarchy very much embedded in a post-colonial society of the Philippines, it is the women, particularly those from the rural and indigenous communities, who are experiencing the brunt of the adverse impacts of mining.

Mining in the Philippines has been aggressively promoted with the passage of the Philippine Mining Act of 1995 or Rep. Act 7942². The mining law opened up the country’s mineral resources to full control of ownership of mineral resources by foreign companies, a departure from the patrimony provision of 1987 Philippine Constitution, which allows only 40% foreign ownership³. With this comes amassing a vast area for mining operations, occupying about 765,520.127 hectares of the total land area of the country as of May 2016⁴. The Philippine government has claimed that the mining industry is a boost to the national economy, and that it contributes to employment generation. However, data would show otherwise. As of 2015, the mining contribution to the country’s Gross Development Product (GDP) is P84.2 billion, or a mere 0.7%. This has been consistent from 2012-2015. This is the same for mining contribution to total employment at an average of 0.6-0.7% of the labor force from 2011-2015⁵.

¹ E/CN.4/2003/90/Add.3, Mission to the Philippines, p.2

² Mining Act, Republic Act No. 7942 - issued in 1995, it is considered as the most important legal basis for the mining exploitation of Philippines’ natural resources. It stipulates that “mineral resources are owned by the State and the exploitation, development, utilization, and processing is under its full control and supervision. It provides relevant and fundamental economic incentives for foreign businesses interested in investing in and exploiting the Philippines. The law further stipulates who may obtain mining rights and the types of agreements regulating mining projects.

³ Judith A. Pasimio, “Policy Study on Women Human Rights and the Mining Industry in the Philippines,” (LILAK Purple Action for Indigenous Women’s Rights)

⁴ Data computed based on Department of Environment and Natural Resources - Mines and Geosciences Bureau - Complete List of Existing Exploration Permits (EPs) http://mgb.gov.ph/attachments/article/50/May-2016_MPSA_2.pdf; Complete List of Existing Financial or Technical Assistance Agreements (FTAAs) http://mgb.gov.ph/attachments/article/50/May-2016_FTAAs.pdf, and Complete List of Existing MPSA http://mgb.gov.ph/attachments/article/50/May-2016_MPSA_2.pdf

⁵ Data based on Department of Environment and Natural Resources - Mines and Geosciences Bureau Mining Industry Statistics [http://mgb.gov.ph/attachments/article/162/MIS/2015%20\(1\)%20\(1\).pdf](http://mgb.gov.ph/attachments/article/162/MIS/2015%20(1)%20(1).pdf)

These very minute contributions are made more insignificant given that whatever benefits there may be from the mining industry remain to be far from the reach of the rural and indigenous women. Most of the rural and indigenous women are found in GIDA or Geographically Isolated and Disadvantaged Areas. These are areas, too, where the ancestral domains⁶ of the indigenous communities are found, which are rich in natural resources, and where the mining concessions and applications are. In fact, 66% of the officially recognized ancestral domains of the indigenous peoples are covered by mining concessions⁷. The different forms of gross human rights violations against the rural and indigenous women caused by the presence of mining projects perpetuate discrimination, marginalization and vulnerabilities against them.

The Philippines has passed the Magna Carta of Women (MCW) or Republic Act of 9710. The MCW is a comprehensive women's human rights law that seeks to eliminate discrimination against women by recognizing, protecting, fulfilling and promoting the rights of Filipino women, especially those in marginalized sectors. The MCW is the Philippine translation of the UN Convention of the Elimination of Discrimination Against Women (CEDAW). It is heavily based on Article 14 of CEDAW which stipulates that *States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas*. Here lays the foundation of the call for accountability for Philippine government's state obligations to actively protect and promote women's rights.

⁶ **Ancestral domains** - term used for "forests, pasture, residential, agricultural and other lands", as well as for "bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities". The NCIP has the power to issue a certificate of ancestral land and domain title. The Indigenous People Rights Act (Republic Act No. 8371) Chapter II: Definition of Terms, Section 3, para. a) Ancestral Domains.

⁷ De Vera, Dave, "Ancestral Domains, KBAs, Protected Areas & Mining in the Philippines: A spatial overview" (PAFID, 2015).

Since its passage in 2009, this law remains to be a promise yet to be fulfilled by the Philippine government. In 20 April 2016, this law, a first in the country, was invoked by women's groups and other women rights advocates in their complaint against then presidential candidate Mayor Rodrigo Duterte for acts constituting violence against women⁸. The Commission on Human Rights (CHR), which is designated as the Gender Ombud, issued a resolution with its findings saying that now President-elect Duterte has indeed committed acts of violence against women, and has violated the Magna Carta of Women⁹. This was a welcome development in the light of popular vote for Duterte. This strengthens the position of the Gender Ombud, and makes the Magna Carta of Women a real potential tool for the protection of women's rights.

The challenge now is how to pursue the use of MCW – CEDAW as standards for women human rights, and to seek accountability from the Philippine government in its legal obligations to protect and promote these rights, especially in the context of the mining operations in the country.

From the past several years of working directly with communities affected by mining operations, the following are some of the most urgent issues of women human rights deeply affected, if not outright violated with the mining projects in the communities. These forms of violence against women, and violations of their rights contribute heavily to the perpetuation of the patriarchal values still very much embedded in indigenous communities.

⁸ Letter-complaint filed by several women's NGOs, and sectoral organizations on 20 April 2016 at the Commission on Human Rights against Davao City Mayor Rodrigo Roa Duterte for Violations of Republic Act No. 9710, otherwise known as the "Magna Carta of Women" docketed under CHR-NCR-2016-078

⁹ Commission on Human Rights Resolution No. 2016-078 concluded on 20 May 2016

RIGHT TO PARTICIPATION IN POLITICAL & PUBLIC LIFE

Active participation of women on decision-making regarding potential mining operations in their ancestral domains is being systematically shunned by the manner in which information is transmitted and consultations are conducted. On most cases, only the tribal leaders of the communities are engaged with by mining companies and national government agencies such as the National Commission on Indigenous Peoples (NCIP) and the Department of Environment and Natural Resources (DENR). The tribal leaders are most often than not, are male leaders. Women are left to hear only through the grapevine, with much of their opinion resting on the amount and quality of information their husbands and fathers share with them. This transmitted information is most likely already distilled based on the understanding and personal take of the males¹². This supposed respect of the indigenous culture is made accountable for this non-inclusive and discriminatory information sharing, not NCIP or the mining companies, which marginalizes indigenous women from active and informed participation in political processes.

Sec. 25 of the MCW invokes the right of women in marginalized sectors to **Representation and Participation** which calls upon the State to *ensure women's participation in policy-making or decision-making bodies in the regional, national, and international levels*. Sec. 26 on **Right to Information** also ensures women's *access to information regarding policies on women, including programs, projects, and funding outlays that affect them*. Furthermore, the Constitution in the Philippines recognizes the right to access to information at its Article 3, Section 7.

The B'laan women of Samlang, Malungon, Saranggani, an area covered by the Tampakan Copper Mining project said that they were asked to attend meetings, purportedly for livelihood projects. During the meetings, they would be asked to sign or thumbmark sheets of paper supposedly for lunch to be served, only to find out much later that this was used for the free, prior, informed consent process (FPIC) for the SMI project. They had very little information on the SMI project, the extent and coverage of the mining project, what an Environmental Compliance Certificate (ECC) was, and the policies governing mining operations¹⁰. They had no previous knowledge on their rights as indigenous peoples under IPRA, or as women, under the MCW. They did not know that saying "no" or not giving consent, even to a national development project such as this, is an option, and in fact, is their right.¹¹

¹⁰ Garingan, Edel S., "Resistance of Women in Samlang", *Stories from the Mines*, p.99.

¹¹ Based on the discussions the writer had during a 2-day forum in Samlang with the B'laan women, 2013.

¹² Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

¹³ **The Indigenous Peoples Rights Act (IPRA)**, Republic Act No. 8371 – Issued in 1997, it recognizes, protects and promotes the rights of indigenous cultural communities (ICCs) and of indigenous peoples (IPs), emphasizing that they have priority rights within their ancestral domains. The Act includes key issues such as the rights of indigenous communities to self-determination and to their traditional land. It recognises the concept of collective ownership of lands, inland waters, coastal areas, and natural resources. It also established the National Commission on Indigenous Peoples (NCIP) to ensure the protection and promotion of the interest and well-being of the Indigenous peoples in the Philippines, through the effective implementation of IPRA. The NCIP holds offices in the region, with the central office located in Metro Manila.

¹⁴ The Indigenous Peoples Rights Act of 1997, Section 26.

The Local Government Code of 1991 also contains provision in relation to the duty of the State to provide information for its citizens, as well as ways to participate in decision-making and policy-shaping processes. The adoption of IPRA in 1997¹³ was considered as a milestone in terms of protection of indigenous peoples' rights. It guarantees the participation of indigenous women in the decision making process as stipulated in Section 26: "women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition"¹⁴.

¹³ **The Indigenous Peoples Rights Act (IPRA)**, Republic Act No. 8371 – Issued in 1997, it recognizes, protects and promotes the rights of indigenous communities (ICCs) and of indigenous peoples (IPs), emphasizing that they have priority rights within their ancestral domains. The Act includes key issues such as the rights of indigenous communities to self-determination and to their traditional land. It recognises the concept of collective ownership of lands, inland waters, coastal areas, and natural resources. It also established the National Commission on Indigenous Peoples (NCIP) to ensure the protection and promotion of the interest and well-being of the Indigenous peoples in the Philippines, through the effective implementation of IPRA. The NCIP holds offices in the region, with the central office located in Metro Manila.

¹⁴ The Indigenous Peoples Rights Act of 1997, Section 26.

RIGHT TO LIVELIHOOD & RIGHT TO FOOD

The rural and indigenous women's main source of livelihood is food-based and natural resource dependent – on forest, land, and water. They gather non-timber forest products, farm, and tend vegetable gardens. However, mining concessions have taken control of forest and agricultural lands, limiting, if not eliminating the access of these resources to women. Subsistence farms were also eradicated to clear the land for mining operations. This gravely impacts on their livelihood, and the food for their families.

The communities and their resources are also made more vulnerable by the disasters caused by mining operations. The last years, Philippines has been a witness to increasing number of mining accidents. Mine tailings and dam spills have caused valuable bodies of water to become toxic, resulting to fish kills and further limiting access to clean water.

Brgy Didipio in Kasibu, Nueva Vizcaya and Tampakan, South Cotabato face human health and security risks as mining operations destroy natural resources and pay no mind to the aftermath. Dust has filled the surroundings of Brgy. Didipio as a result of the destruction of homes, forests, and mountains for mining operations¹⁵. Furthermore, the Didipio River has been reported to have increased toxicity levels as a result of heavy metal concentration spewed by the mines¹⁶. The mining area in Tampakan sits on fault line, which increases the risk of seismic activity that poses threat to the spilling of the dam for mine tailings and the contamination of flood waters with toxic mine waters.

As a common practice in Philippine communities, women cut back from their share of the food for the family when there is not enough food, even saving none for themselves, in order to ensure that all members of the family have enough to eat. Furthermore, mining operations also limit the opportunities of women to partake in income generation. Most of the mining employment opportunities (though mostly seasonal) were given to men. While there are a few income-earning opportunities made available for women, these forms of work do not necessarily contribute much to their development (eg, laundry, housekeeping for the miners and officers of the company). Furthermore, the increasing pressure to earn more substantively exposes them to sexual abuse as in prostitution, and stunted self-actualization through training programs that are only offered to women who support mining operations in their communities¹⁷. These run contrary to Sec. 22 on the women's **Right to Decent Work** which secures *decent work standards for women that involve the creation of jobs of acceptable quality in conditions of freedom, equity, security, and human dignity*.

¹⁵ Farah Sevilla, "Tracing the impacts of mining among women in Philippine rural communities: the case of Ifugao women in Didipio, Kasibu" (25 November 2014)

¹⁶ Ibid

¹⁷ Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

Although the State Party affirms that, for rural women in general, “it has been implementing a number of programs primarily to increase their access to resources for livelihood”, there is evidence that hindrances are real for the full enjoyment of the right to livelihood. According to a 2014 report, there are 281 approved applications for large-scale mining operations covering at least 532,356 hectares, with the estimation that 100.000 people belonging to indigenous people form 39 different indigenous communities will be displaced. It means that they will lose their right to livelihood. These are direct infractions of Sec. 20 of the MCW on **Food Security and Productive Resources** which *recognizes the contribution of women to food production* and as such holds the State responsible in *ensur[ing] its sustainability and sufficiency with the active participation of women* and Sec. 23 on the **Right to Livelihood, Credit, Capital, and Technology** which secures for women (a) *Equal access to formal sources of credit and capital* and (b) *Equal share to the produce of farms and aquatic resources*.

In Kasibu, Nueva Vizcaya; MacArthur, Leyte; Salcedo, Eastern Samar; Manicani Island in Guiuan, Eastern Samar, and Tampakan, South Cotabato, many stories of how mining operations drastically changed the livelihood and access to food of the communities which brought further distress upon women. In Kasibu, the sprouting up of brothels and videoke houses which provide entertainment services to migrant miners lure women to provide entertainment services as a means to earn a living with the disappearance of their sources of food and livelihood¹⁸. Fish kills in 2012 due to magnetite mining operations in MacArthur, Leyte being done half a kilometre away from Lake Bito denied the communities their source of food and livelihood. Safe drinking water in Salcedo has become scarce due to contamination, and thus come skyrocketing prices of water for sale that a gallon costs up to PhP 200.00 including costs incurred for transportation. Farms, forests, and other coastal resources were compromised in Manicani Island and Tampakan, causing communities to lose their homes as well as access to food, medicine, and livelihood.

¹⁸ Farah Sevilla, “Tracing the impacts of mining among women in Philippine rural communities: the case of Ifugao women in Didipio, Kasibu” (25 November 2014)

¹⁹ Ibid

²⁰ Judith A. Pasimio’s interview with Mayette Badar of PPKK Visayas, July 2012, Quezon City, in

²¹ Ma. Daryl Leyesa, “A Woman With Choice”, in *Stories from the Mines*, eds Judy A. Pasimio, Edel Garingan, and Farah Sevilla (Alyansa Tigil Mina, 2012).

²² CEDAW/C/PHL/7-8, Philippines State Report, para. 155.

²³ Estimation according to the KAMP, a national federation of indigenous peoples’ organisations in the Philippines, as cited in *The Indigenous World 2005*, published by the International Work Group for Indigenous Peoples, p. 257

RIGHT TO HEALTH

Despite the efforts made by the Government of the Philippines to provide the access of health to indigenous women, especially through Sec. 17 on **Women's Right to Health** and Sec. 27 on **Social Protection** of the MCW, the situation of indigenous and rural women in several areas within the country remains a concern. The access to basic health service has been a challenge for several years. Today, indigenous women still depend on their environment as the source of their livelihood as well as traditional remedies for health issues. In addition, natural hazards such as landslides and floods caused by mining activities pose security risks to communities living nearby. With the adverse effects of climate change occurring in levels greater than decades ago, these threats against ecosystems which are sources of food, livelihood, and medicine as well as human communities are aggravated as they become more exposed to intensified weather events such as typhoons and droughts, without healthy ecosystems as shields.

Brgy Didipio in Kasibu, Nueva Vizcaya and Tampakan, South Cotabato face human health and security risks as mining operations destroy natural resources and pay no mind to the aftermath. Dust has filled the surroundings of Brgy. Didipio as a result of the destruction of homes, forests, and mountains for mining operations²⁴. Furthermore, the Didipio River has been reported to have increased toxicity levels as a result of heavy metal concentration spewed by the mines²⁵. The mining area in Tampakan sits on fault line, which increases the risk of seismic activity that poses threat to the spilling of the dam for mine tailings and the contamination of flood waters with toxic mine waters.

The presence of extractive corporations operating in the Philippines presents risks for the human right to the highest attainable health standards for affected communities. Mining activities have negatively affected the right to health in several accounts. These health-based impacts, which can be associated with the release of dust or chemicals into the air, water or soil, are particularly prevalent in the contexts where heavy metals enter into water sources as a result of mining. Health risks brought about by mining operations are magnified by the lack of adequate State service for medical care in the indigenous communities²⁶.

²⁴ Farah Sevilla, "Tracing the impacts of mining among women in Philippine rural communities: the case of Ifugao women in Didipio, Kasibu" (25 November 2014)

²⁵ Ibid

²⁶ INEF, Misereor, Fastenopfer, Brot fuer Alle, *Human Rights Impact Assessment of the Tampakan Copper-Gold Project*, 2013, p. 47

The impacts of climate change include more and frequent rainfall, stronger and more typhoons. In areas where mining operates within watershed areas, these stronger typhoons caused massive devastation in downstream communities. The typhoons Sendong (December 2011) and Pablo (December 2012) had heavy toll in the downstream communities, including the Manobo and Mandaya communities. Mining in the upstream of Compostela Valley has been identified as the main culprit for such devastation.

At present, the Philippines is considered as one of the most vulnerable countries to climate change. According to the 2014 Maplecroft report, Philippines ranks 9th in the most vulnerable countries. Meanwhile, as of 2015, there are overlaps of areas covered by mining tenements and areas considered high risk and vulnerable to the impacts of climate change – flooding and landslides²⁷. This poses real danger in the lives of the communities, particularly the most vulnerable sectors within these – the women and children.

²⁷ De Vera, Dave. PAFID Maps 2015.

VIOLENCE AGAINST WOMEN HUMAN RIGHTS DEFENDERS

As they experience increasingly hunger, poverty and are more exposed to different forms of vulnerabilities because of the mining presence in their communities, more rural and indigenous women are in the frontlines of campaigns and community struggles against large scale mining operations, and in asserting their rights. This, in turn, has made them targets of threats, harassment and violence. To date, there are at least 153 women activists who have risked their lives defending human rights since 2001, 18 of whom were killed during the Aquino administration²⁸.

The killings of the male leaders have also grave impacts on the lives of the women in the families, and communities. It is the wives and the mothers of the slain husbands and sons who, despite their own grief, have to remain steadfast and find ways to sustain their families on their own. This increases the burden on their shoulders, taking on any kind of jobs, rendering themselves vulnerable to different forms of abuses. There are no state institutions which provide immediate, adequate and sustained support for the families of victims of extrajudicial killings, abuses, and harassments.

The Philippines, according to Ireland-based Frontline Defenders, an international human rights group, is ranked second in a list of the most dangerous places for human rights defenders in 2016²⁹. The culture of impunity of crimes like these is one major factor why these crimes persist. With the new Duterte administration, one of the greatest challenges lies in its rallying call for vigilantism against criminals. In a society where human rights defense work is heavily criminalized, this is indeed one of the danger signs that has to be addressed.

Among the Women Human Rights Defenders who were killed was Juvy Capion, who was shot dead in her home by national military forces in October 2012 along with her sons aged 13 and 6, in Kiblawan, Davao del Sur. A Bla'an woman leader, whose husband was also an active leader, she actively opposed the encroachment of SMI-Xtrata mining operations in their ancestral domain. The military men, members of the 27th Infantry Battalion of the Philippine Army, admitted that the killings of Juvy and her 2 children were "operational lapses." Four years since the killings, the Court Marshall which is conducting the hearings against the military men, has yet to reach a verdict.

²⁸ According to Tanggol Bayi, an indigenous women's rights group in the Philippines (cited in Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

²⁹ Frontline Defenders, 2016 Annual Report.

Violence against women human rights defenders are not only perpetrated by mining companies and the government. It also happens in the home and in the communities, where patriarchal values are still very much entrenched. The initiative to actively participate in defending the rights of women in their communities and resisting mining companies was usually responded not by support but rather outrage on the part of their husbands and shaming committed by other members of the community. Instead of being recognized of being equally capable of fighting for rights and actively participating in community affairs, they were perceived as neglecting their roles in the family as these activities took time away from them.

Furthermore, their active participation was usually treated with suspicion as they join and conduct activities which took time away from home and in the presence of other people, including males³³. With such responses from the community as well as their families, the right of women to actively participate in matters of interest to her own and her community is suppressed, as she is being made to choose between complying with the standards society is subjecting her to as a woman, mother, and wife, and exercising her capacity to push for her rights and the rights of her community.

Sec. 9 of the MCW recognizes the need of women for **Protection from Violence**, as it stipulates that *all women shall be protected from all forms of violence as provided for in existing laws. Agencies of government shall give priority to the defense and protection of women against gender-based offenses and help women attain justice and healing.* In addition, Sec. 11 of the MCW also recognizes the right of women to **Participation and Representation**, where the *State shall undertake temporary special measures to accelerate the participation and equitable representation of women in all spheres of society particularly in the decision-making and policy-making processes in government and private entities to fully realize their role as agents and beneficiaries of development.*

Osang of Tandag, Surigao, a Subanen women leader, and Cheryl Ananayo Pugon of Brgy. Didipio, Nueva Vizcaya, were victims of violence as they defended their rights and their communities' rights against the atrocities being cast upon them by mining companies, and openly opposed mining operations. Osang, a Mamanwa woman who was a community leader, was almost killed by her husband in her sleep, because her husband was suspecting her of having an affair as she did not have enough time to attend to him and their family³⁰. A Subanen woman leader, on plenty of instances, received text messages which were bent on threatening her sexually due to her active participation in the community opposition against mining³¹. Cheryl Ananayo Pugon, was the daughter of an active community woman leader opposing the Oceania Gold mining in their area. Cheryl, who seemed to have been caught in a land dispute, have been shot dead, inside a vehicle, with her infant on her lap. Her 4 year old daughter who was sitting behind the vehicle, witnessed the killing.

Manolita Galvez of Zamboanga del Norte and the Bla'an women of Tampakan,, South Cotabato, also became victims to violence perpetrated by mining companies in their quest to take their lands and homes away from them. Manolita and her family were hauled out from her home. The garden where she grew vegetables for food for her family was bulldozed by TVI . This forced her, along with the other families, to leave and move around Mindanao, searching for new homes and livelihood³². The Bla'an women and their children were always the first ones to be victimized or killed during military operations against their community which declared "flague" or war against the mining company and any members of the government security forces.

³⁰ Interview by Judith A. Pasimio, name withheld for security reasons, Butuan, May 28, 2015, in Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

³¹ Personal sharing with Judith A. Pasimio, throughout the year of 2012, in Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

³² Judith A. Pasimio's interview with Manolita Galvez, April 2007, Dipolog City, in Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

³³ Judith A. Pasimio, "Policy Study on Women Human Rights and the Mining Industry in the Philippines," (LILAK Purple Action for Indigenous Women's Rights)

RECOMMENDATIONS

The Philippine Government has signed the UN Convention on the Elimination of Discrimination Against Women (CEDAW) as well as Declaration on the Rights of the Indigenous Peoples (UNDRIP), as well as passed progressive national laws, the Magna Carta of Women and the Indigenous Peoples' Rights Act. These laws signify the commitment of the Philippine government to fulfill its obligations to protect and promote the rights of rural and indigenous women. However, with its national development framework geared towards the maximum utilization of the country's natural resources for profit, giving preferential treatments to foreign investments, women human rights are being sacrificed. Gender biases and discrimination, patriarchal structures and violence against women are being institutionalized to further the interests of these mining corporations.

Below outlines key points for action by the State Party with respect to the implementation of the MCW and CEDAW towards protecting the rights of indigenous women ensnared in traps of the mining sector and rammed in further by the neglect and indifference of the government to her plights.

1. In March 2016, the Committee on the Elimination of Discrimination Against Women released General Recommendation No. 34 on the rights of the rural women. As a signatory to CEDAW, the Philippine government should abide by these articulated obligations of the States, which directly applies to indigenous women. It further specifies recommended steps for the government to create an enabling environment for rural women to exercise their rights in the areas of rural development, access to health, elimination of discrimination in economic and social life, access to education and learning opportunities, decent work and employment, participation in political and public life, access to land and natural resources, and attaining adequate living conditions.
2. The government has to fulfill its state obligations – the full realization of the rights of rural and indigenous women as enshrined in the Magna Carta of Women and IPRA.

3. The government needs to ensure the provision of basic social services to GIDA areas to decrease the vulnerabilities of communities, particularly rural and indigenous women; and eliminate the dependency on mining corporations for these services.
4. The government should provide financial and technical assistance and support to indigenous communities for the development, management and control of their ancestral domain and territories. The mining corporations should not be relied on for these forms of assistance.
5. The NCIP has to ensure that there is genuine FPIC, and that the process is inclusive and democratic. CONCRETELY, review the existing FPIC guidelines from a women human rights perspective, while still respecting the customary practices. There should be government budget allocation for FPIC processing and should not come from the mining companies, to be able to have independent processes.
6. Revoke policies which are being used to legitimize harassment and attacks on community resisters and rights defenders, e.g. Investment Defense Force.
7. Rural and indigenous women have to have access to justice and grievance mechanisms. There should be accessible, immediate and effective institutional mechanisms within the government (i.e. CHR) which are equipped to handle monitoring, acceptance of reports of women human rights violations and abuses, investigation and filing of cases, involving mining companies. There should be a commission within CHR on the impacts of extractive industry; or complaints against HR violations and abuses by corporations or related to the operations of extractive projects.
8. There are numerous mining-related cases filed within the NCIP, Ombudsman and the Environment Court. Concrete steps should be taken to break impunity of government people (NCIP, DENR, LGU, AFP) by bringing them to justice – from administrative liability to criminal offenses.
9. Provide multi-level support system to women human rights defenders (legal, medical, psychosocial, security and economic) who are under threat, survived attempts to their lives, or whose family member/s have been killed or made to disappear in relation to their opposition to mining operation.
10. Make human rights track record a basis for the rejection of mining application; and commission of human rights abuses as part of the grounds of revocation of mining permits. Institutionalize Human Rights Impact Assessment of mining operations.

11. Pursue and support the creation of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights as mandated by the UN Human Rights Council Resolution 26/9 which the Philippine government supported.
12. The government, through its policies and institutional mechanisms of implementation, should have a deeper understanding that mining and minerals development is likewise a human rights issue – of both women and indigenous peoples. From this deeper understanding would come the change towards a more integrated, comprehensive and programmatic way of looking at and working on mining and minerals development.
13. Reframe the entire corporate mining industry into an industry that fulfills nationalist agenda of development, which put at its core equity, gender justice, and the transformation of the lives of the people, particularly the most marginalized.
14. Pass the Alternatives Mineral Management Bill for a more rationale, nationalist, equitable, community-focused, sustainable, human rights-based exploration and utilization of our natural resources.

United Nations



**Convention on the Elimination
of All Forms of Discrimination
against Women**

CEDAW/C/PHL/CO/

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**Committee on the Elimination of Discrimination
against Women**

**Concluding observations on the combined seventh and
eighth periodic reports of the Philippines***

1. The Committee considered the combined
of the Philippines (CEDAW/C/PHL/CO/7-8).

**Convention on the Elimination of All Forms of
Discrimination against Women —**

**CONCLUDING OBSERVATIONS ON
THE COMBINED SEVENTH AND
EIGHTH PERIODIC REPORTS OF
THE PHILIPPINES**

Adopted by the Committee at its sixty-fourth session (4-22 July 2016)

of Southeast Asian Nations (ASEAN) Commission on the Promotion
and Protection of the Rights of Women and Children

**A Reprint of CEDAW/C/PHL/CO/7-8; Distr: General,
25 July 2016**

* Adopted by the Committee at its sixty-fourth session (4-22 July 2016).

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Concluding observations on the combined seventh and eighth periodic reports of the Philippines*

1. The Committee considered the combined seventh and eighth periodic reports of the Philippines (CEDAW/C/PHL/7-8) at its 1405th and 1406th meetings, on 5 July 2016 (see CEDAW/C/SR.1405 and 1406). The Committee's list of issues and questions is contained in CEDAW/C/PHL/Q/7-8 and the responses of the Philippines are contained in CEDAW/C/PHL/Q/7-8/Add.1.

A. INTRODUCTION

2. The Committee appreciates the submission by the State party of its combined seventh and eighth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the constructive engagement of and oral presentation by the delegation, in addition to the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its multisectoral delegation, which was co-headed by the Permanent Representative of the Philippines to the United Nations Office and other international organizations in Geneva, Cecilia B. Rebono, and by Foreign Affairs Adviser, Rosario Manalo. The delegation also included representatives of the Philippine Commission on Women, the Department of Health, the Department of Social Welfare and Development, the Department of Justice, the Department of Foreign Affairs, the Department of Labour and Employment, the Regional Commission on Bangsamoro Women, the Philippine Overseas Employment Administration, the National Commission for Indigenous Peoples, the Commission on Higher Education and the National Economic and Development Authority, together with the representative of the Philippines to the Association of Southeast Asian Nations (ASEAN) Commission on the Promotion and Protection of the Rights of Women and Children.

B. POSITIVE ASPECTS

4. The Committee welcomes the progress achieved since its consideration in 2006 of the State party's combined fifth and sixth periodic reports (CEDAW/C/PHI/5-6) in undertaking legislative reforms, in particular the adoption of the following legislation:

- (a) Expanded Anti-Trafficking in Persons Act of 2012 (Republic Act No. 10364), in 2013;
- (b) Domestic Workers Act (Republic Act No. 10361), in 2013;
- (c) Responsible Parenthood and Reproductive Health Act (Republic Act No. 10354), in 2012;
- (d) Magna Carta of Women (Republic Act No. 9710), in 2009.

5. The Committee welcomes the State party's efforts to improve its institutional and policy

*Adopted by the Committee at its sixty-fourth session (4-22 July 2016).

framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, including the following:

(a) Adoption of the women's empowerment, development and gender equality plan, covering the period 2013-2016;

(b) Adoption of the national action plan on women and peace and security, covering the period 2010-2016, aimed at the implementation of Security Council resolutions 1325 (2000) and 1820 (2008);

(c) Establishment of the Philippine Commission on Women with a mandate to advance the women's priority legislative agenda and monitor the implementation of the women's empowerment, development and gender equality plan;

(d) Designation of the Commission on Human Rights as the Gender Ombud.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization (ILO).

C. PRINCIPAL AREAS OF CONCERN AND RECOMMENDATIONS CONGRESS

7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites Congress, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.

GENERAL CONTEXT

8. The Committee notes with appreciation that the State party has made considerable progress towards achieving gender equality, reflected in its seventh- place ranking in the Global Gender Gap Index in 2015, and towards achieving Millennium Development Goal 3 on gender equality. The Committee notes that the State party achieved significant economic growth during the period under review, notwithstanding severe damage caused by a series of natural disasters, including typhoons and earthquakes. The Committee also notes that the State party signed the Comprehensive Agreement on the Bangsamoro, a temporary peace agreement with the Moro Islamic Liberation Front, to put an end to a long-lasting armed conflict. In addition, the State party has a large proportion of its population working abroad as migrant workers, many of them women. The protection of the rights of women who face multiple and intersecting forms of discrimination is also a particular concern in the State party.

9. The Committee recommends that the State party further accelerate its achievement of substantive gender equality and the full realization of human rights for women, in particular by strengthening a gender-sensitive approach to development, peace and security, transitional justice, migration, disaster risk reduction, preparedness and response, and the mitigation of the negative impacts of climate change, with special attention paid to women facing multiple

and intersecting forms of discrimination. The Committee also recommends that the State party ensure the active and meaningful participation of women and women's rights organizations in such processes.

LEGISLATIVE FRAMEWORK

10. The Committee notes that the Constitution stipulates that generally accepted principles of international law and treaties ratified by the State party form part of the law of the land (CEDAW/C/PHL/7-8, para. 14). However, the Committee is concerned that, in case of an irreconcilable conflict between treaty norms and national laws, the latter would prevail, in line with the current jurisprudence of the Supreme Court.

11. The Committee recommends that the State party clarify the status of the Convention in its national legal order and ensure the precedence of its provisions over national laws in cases of conflict. The Committee also recommends that the State party ensure that such laws are applied and interpreted in conformity with the provisions of the Convention.

12. The Committee welcomes the adoption of the Magna Carta of Women in 2009, but notes that the harmonization of national legislation with the Magna Carta is still pending, including amendments to the Family Code, the Revised Penal Code of 1930, the Anti-Rape Law of 1997 (Republic Act No. 8353), the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877) and the Code of Muslim Personal Laws. The Committee is also concerned that the adoption of a number of bills necessary for the implementation of the Convention, including a bill on divorce, a bill on recognizing repeated abuse as a ground for legal separation, a bill expanding the definition of sexual harassment and a bill for a magna carta of workers in the informal economy, has been pending for a long time.

13. The Committee recommends that the State party strengthen its efforts for the full and timely implementation of the women's priority legislative agenda, in order to expedite the full harmonization of national legislation with the Convention and the Magna Carta of Women, and that it establish effective mechanisms to monitor the implementation of these laws, with the participation of women's organizations, at both the national and local levels.

ACCESS TO JUSTICE

14. The Committee notes with concern:

(a) That no effective remedies have been provided to the authors of communications No. 18/2008 (Vertido v. the Philippines) and No. 34/2011 (R.P.B. v. the Philippines);

(b) That discriminatory gender stereotypes, stigmatization and the lack of adequate support systems all pose barriers to justice and to effective remedies for women, in particular those facing multiple forms of discrimination, such as women in poverty, women with disabilities, indigenous and Muslim women, women living in geographically inaccessible areas, and lesbian, bisexual and transgender women;

(c) That a number of judicial decisions, including decisions on sexual and reproductive health rights and gender-based violence against women, are not fully compliant with the provisions of the Convention;

(d) That judicial and legal procedures at courts, police stations and health-care facilities are not sufficiently accessible to persons with disabilities and are often gender-insensitive.

15. The Committee urges the State party to provide effective remedies to the authors of communications No. 18/2008 (*Vertido v. the Philippines*) and No. 34/2011 (*R.P.B. v. the Philippines*), in line with the recommendations issued by the Committee (see CEDAW/C/46/D/18/2008 and CEDAW/C/57/D/34/2011), and to submit its responses on these cases without any further delay.

16. With reference to its general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:

(a) Ensure that justice systems, both formal and informal, do not discriminate against women and are secure, affordable and physically accessible for women, including those who face intersecting forms of discrimination, such as by institutionalizing accessibility for women with all forms of disabilities, and raise awareness among women about all available justice systems;

(b) Take measures, including the development of capacity-building programmes for justice system personnel, in order to strengthen gender responsiveness and gender sensitivity and ensure that the various religious, customary and indigenous justice systems harmonize their norms, procedures and practices with the Convention;

(c) Ensure that the justice system, including the transitional justice system, provides and enforces remedies for women that are effective, gender-sensitive and proportionate to the gravity of the harm suffered;

(d) Assess the functionality and effectiveness of women and children protection desks at police stations, in consultation with all stakeholders, including women who are victims of violence and women's rights organizations, in order to enhance the responsiveness of the desks.

NATIONAL MACHINERY FOR THE ADVANCEMENT OF WOMEN

17. The Committee commends the State party on its commitment to strengthening the capacity of the Philippine Commission on Women in promoting gender equality and gender mainstreaming in the State party. However, the current level of resources available to the Commission is not sufficient for its mandate.

18. The Committee recommends that the State party provide the Philippine Commission on Women with sufficient technical, human and financial resources to discharge its mandate effectively.

NATIONAL HUMAN RIGHTS INSTITUTION

19. The Committee notes that the Commission on Human Rights is designated as Gender Ombud and mandated with the promotion and protection of human rights for women, including the investigation of complaints of discrimination and violations of their rights. It is concerned, however, about the general lack of political will on the part of government institutions to act promptly on the findings and resolutions of the Commission regarding violations of the Magna Carta of Women.

20. The Committee recommends that the State party put in place mandatory mechanisms that would protect and ensure the full independence of the Commission and make its resolutions legally binding on government agencies, especially those responsible for imposing sanctions for violations of the Magna Carta of Women.

TEMPORARY SPECIAL MEASURES

21. The Committee notes with concern that several bills to implement temporary special measures provided for in the Magna Carta of Women are still pending and that there is no mechanism to monitor the implementation of such temporary special measures and assess their impact.

22. With reference to its general recommendation No. 25 (2004) on temporary special measures, the Committee recommends that the State party:

(a) Expedite the adoption of the pending bills referred to in paragraph 21 above to implement temporary special measures, including a statutory quota for the representation of women as candidates in elections, in appointed positions in the Government and among the beneficiaries of scholarships and training opportunities for government officials;

(b) Implement those temporary special measures provided under sections 11 (a) and (b) of the Magna Carta of Women that do not require legislation for implementation, in particular in relation to women's representation on development councils at all levels;

(c) Use temporary special measures to enhance substantive equality of girls and women belonging to disadvantaged sections, including minority groups and communities;

(d) Institute a mechanism to monitor the impact of temporary special measures taken, track trends over time and take necessary corrective measures, including introducing sanctions for non-compliance, and provide in the next report detailed information and an assessment of results achieved.

STEREOTYPES AND HARMFUL PRACTICES

23. The Committee welcomes the efforts made by the State party to remove discriminatory gender stereotypes from teaching materials used in schools. It is nevertheless concerned about persisting stereotypes regarding the roles and responsibilities of women and men in the family

and in society, as well as derogatory statements and behaviour by high-level political figures with regard to women and public acquiescence to such statements and behaviour.

24. The Committee recommends that the State party:

(a) Put in place a comprehensive strategy with proactive and sustained measures aimed at both women and men at all levels of society, including political, traditional and religious leaders, to eliminate discriminatory stereotypes about the roles and responsibilities of women and men in the family and in society;

(b) Encourage the media to portray positive images of women and the equal status of women and men in public and private life and to avoid gender stereotypes in media coverage of gender-based violence against women;

(c) Fully implement the recommendations of the Commission on Human Rights in its resolution on case No. 2016-078.

Gender-based violence against women

25. The Committee notes the legislation in place in the State party and the comprehensive policy framework and inter-agency mechanisms to combat gender-based violence against women, but is concerned about:

(a) The high prevalence of gender-based violence against women and girls and the low reporting of incidents of violence, in particular domestic violence and sexual violence, due to stigmatization of and discrimination against victims;

(b) The limited scope of the Anti-Violence against Women and Their Children Act of 2004 (Republic Act No. 9262), which is focused mainly on domestic violence by intimate partners;

(c) The fact that statutory rape under the Anti-Rape Law of 1997 is limited to cases in which the victim is under 12 years of age;

(d) The increasing incidence of online sexual exploitation and abuse of children;

(e) Intensified gender-based violence against women, including by members of the armed forces, such as killings and sexual violence and abuse in conflict-affected areas and in areas of large-scale development projects;

(f) The lack of disaggregated data on gender-based violence against women in the context of displacement, armed conflict, disaster, migration and trafficking situations, as well as on gender-based violence against women with disabilities.

26. The Committee recommends that the State party:

(a) Adopt comprehensive legislation on gender-based violence against women covering all forms of violence;

(b) Expedite the amendment of the Anti-Rape Law of 1997, putting lack of consent as the primary element of the definition of rape and raising the minimum age of sexual consent, currently set too low at 12 years, to at least 16 years;

(c) Strengthen its response to online sexual exploitation and abuse of children, including through the implementation of the statement of action by Governments to tackle online child sexual exploitation, issued at the #WePROTECT Children Online summit held in Abu Dhabi in 2015, and adopt pending bills expanding the definition of sexual harassment to include peer sexual harassment and cyberharassment;

(d) Prevent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors, apply a zero-tolerance policy to combat impunity and provide necessary support to women and girls who are at risk or victims of such violence, including during times of armed conflict, in line with the Committee's general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations;

(e) Address the root causes of the vulnerability of women and girls to violence, including poverty, inequality in family relations, insecurity, and discriminatory stereotypes;

(f) Systematically collect comprehensive and disaggregated data on gender-based violence against women in displacement, armed conflict, disaster, migration and trafficking situations, as well as on gender-based violence against women with disabilities.

TRAFFICKING AND EXPLOITATION OF PROSTITUTION

27. The Committee welcomes the efforts made by the State party to prevent and combat trafficking in persons, in particular women and girls, including the adoption of the Expanded Anti-Trafficking in Persons Act of 2012, which provides for more severe penalties for traffickers and decriminalizes victims of trafficking, the establishment of the Inter-Agency Council against Trafficking and the launch of the Philippine Anti-Trafficking in Persons Database. Nevertheless, the Committee notes with concern that the State party remains a source country for international and internal trafficking, including for sexual exploitation, forced labour, domestic servitude and organ transplantation. In this regard, the Committee is concerned:

(a) That the current legislative framework against trafficking in persons does not explicitly cover contemporary methods, such as online matchmaking, which can be used as a tool for trafficking in persons;

(b) That prevention of trafficking remains weak, especially during and after disasters and armed conflicts;

(c) That there is a lack of designated shelters for victims of trafficking and a lack of support for their rehabilitation and reintegration.

28. The Committee recommends that the State party:

(a) Effectively implement the Expanded Anti-Trafficking in Persons Act of 2012;

(b) Develop a legal framework to explicitly address contemporary methods of trafficking, which make use of information and communications technologies;

(c) Address the root causes of and women's vulnerability to trafficking, in particular in the context of disasters, conflicts and displacements;

(d) Develop shelters specifically for victims of trafficking and ensure that victims have access to assistance, rehabilitation and reintegration programmes;

(e) Step up efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including by exchanging information and harmonizing legal procedures to prosecute traffickers.

29. The Committee is concerned that a large number of women are subjected to exploitation through prostitution in the State party and that women in prostitution are criminalized under the Penal Code, while few efforts are being made to address the demand side of prostitution.

30. The Committee recommends that the State party review the Penal Code to decriminalize women in prostitution, adopt measures aimed at discouraging male demand for prostitution, expedite the adoption of the pending anti-prostitution bills, address the root causes of prostitution, provide women with alternative income opportunities, and provide assistance, rehabilitation and reintegration programmes for women and girls exploited in prostitution, in addition to exit programmes for women wishing to leave prostitution.

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

31. The Committee welcomes the increased representation of women in the Government, the public service and the judiciary, including at the decision-making level. The Committee also commends the State party on its adoption of the national action plan on women and peace and security, which is aimed at implementing Security Council resolutions 1325 (2000) and 1820 (2008), and the active participation of women in peace and transitional justice processes. The Committee remains concerned, however, about the underrepresentation of women from vulnerable groups, such as indigenous and Muslim women, in all areas of political and public life, and about the lack of information on the adoption of a political party development act, which could mandate parties to apply quotas in the selection of candidates.

32. The Committee recommends that the State party continue its efforts to achieve equal representation of women and men in political and public life. It recommends, in particular, that the State party:

(a) Expedite the adoption of statutory quotas for the representation of women on lists of candidates fielded by political parties for congressional elections, with measurable benchmarks;

(b) Ensure diversity in the representation of women in legislative, administrative and judicial bodies, including Muslim women, indigenous women and women with disabilities;

(c) Adopt regional and local action plans in the Autonomous Region in Muslim Mindanao to implement the national action plan on women and peace and security, and ensure the full participation of Muslim and indigenous women in political and public life at all levels in the Region.

EDUCATION

33. The Committee commends the State party on having achieved Millennium Development Goal 2 on universal access to primary education and a higher literacy rate for girls than boys in both basic and functional literacy, and on having integrated sexual and reproductive health education into primary, secondary and higher education. However, the Committee is concerned about:

(a) The lower number of girls enrolled in pre-primary and primary education compared with boys and the lack of information on girls out of school;

(b) Gender segregation in higher education, with low enrolment of women and girls in non-traditional fields of study such as science, technology, engineering, mathematics and agriculture;

(c) The high incidence of sexual violence and sexual harassment against girls in schools;

(d) The lack of operational guidelines and training for teachers on delivering age-appropriate education on sexual and reproductive health and rights.

34. The Committee recommends that the State party:

(a) Promote the enrolment of girls in pre-primary and primary education;

(b) Analyse and address obstacles faced by girls who are not enrolled in or who have dropped out of school, as a part of efforts to ensure that all girls and boys complete primary and secondary education, including through the use of temporary special measures for those belonging to minority communities;

(c) Enhance its efforts to overcome gender segregation in higher education, with a view to increasing women's enrolment in non-traditional fields of study such as science, technology, engineering, mathematics and agriculture;

(d) Effectively investigate and prosecute cases of sexual violence and harassment against girls in schools and adequately punish perpetrators, and ensure that the committees on decorum and investigation that are established in schools and mandated to accept complaints of sexual harassment do not in effect hinder the investigation and prosecution of perpetrators of sexual violence and harassment at schools by formal criminal justice bodies;

(e) Develop operational guidelines for schools and provide training for teachers in order to deliver high-quality, age-appropriate education on sexual and reproductive health and rights for all girls and boys, including those with disabilities.

EMPLOYMENT

35. The Committee welcomes the removal of the prohibition on night work for women and the adoption of the Domestic Workers Act, but remains concerned about:

- (a) Women's overrepresentation in the informal sector;
- (b) Persistent occupational gender segregation, with women being concentrated in social and caregiving work;
- (c) The wide gender wage gap in the State party and the restrictive interpretation of the principle of equal pay for work of equal value;
- (d) Widespread sexual harassment in the workplace and the prevalence of impunity.

36. The Committee recommends that the State party:

- (a) Intensify measures to increase the protection of human rights for women working in the informal sector and efforts to facilitate the entry of women workers into the formal sector, including through use of temporary special measures for women belonging to minority groups;
- (b) Eliminate horizontal and vertical gender segregation in the labour market, including by adopting temporary special measures to promote access for women to employment;
- (c) Expedite the amendment of the Labour Code to expand the list of prohibited acts of discrimination against women on account of sex and the adoption of pending bills to expand the definition of sexual harassment to include peer sexual harassment, and increase penalties for such crimes;
- (d) Strengthen efforts to investigate and impose sanctions for sexual harassment in the workplace, whether committed in the public or private sector, in line with the Committee's general recommendation No. 19 (1992) on violence against women;
- (e) Establish objective job evaluation schemes for the application of the principle of equal pay for work of equal value in accordance with the Convention and the Equal Remuneration Convention, 1951 (No. 100), of ILO.

WOMEN MIGRANT WORKERS

37. The Committee welcomes the adoption, in 2010, of the amended Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 10022) to protect migrant workers working

in the State party. It is concerned, however, at the widespread exploitation and abuse of Filipina migrant workers working abroad, in particular as domestic workers, and the insufficient support provided to reintegrate those who return. The Committee also notes that the protection of migrant workers under ASEAN migration policies does not cover unskilled migrants, who constitute the majority of Filipina migrant workers.

38. The Committee recommends that the State party:

- (a) Enhance its efforts to effectively protect the rights of Filipina migrant workers abroad, through bilateral agreements and memorandums of understanding with countries and regions to which Filipinas migrate in search of work;
- (b) Strengthen the regulation and inspection of recruitment agencies for migrant workers and the sanctions applicable in case of breaches of relevant regulations;
- (c) Continue its efforts to raise awareness among women migrant workers about their rights, the risks that they may face and the channels that they can use to seek remedies in case of violations of their rights, through pre-departure briefings and public information campaigns;
- (d) Investigate, prosecute and punish perpetrators of exploitation and abuse of women migrant workers, in particular domestic workers, who are under its jurisdiction;
- (e) Provide gender-responsive support to returning women migrant workers for their reintegration.

HEALTH

39. The Committee notes that, in 2014, the Supreme Court recognized the constitutionality of the Responsible Parenthood and Reproductive Health Act and that the Act has subsequently entered into force. It also notes that some legislation, including local executive orders inconsistent with the Act, has been revoked by the Act. The Committee is concerned, however, that women's access to sexual and reproductive health services is still severely restricted and:

- (a) That early pregnancies, unsafe abortions and HIV/AIDS infections are increasing, in particular among adolescent girls;
- (b) That there has been a lack of specific measures to implement the recommendations of the Committee's inquiry conducted in 2012 (CEDAW/C/OP.8/PHL/1), including with regard to access to modern contraceptives and the legalization of abortion under certain circumstances;
- (c) That the implementation of the Responsible Parenthood and Reproductive Health Act has not been consistent throughout the State party, no mechanism to monitor its implementation has been established, and there have been substantial cuts in the budget for this implementation;
- (d) That the revocation of Executive Orders Nos. 003 and 030 of Manila City has been implied by the adoption of the Responsible Parenthood and Reproductive Health Act but has not been expressly declared, resulting in confusion among health professionals and a persistent lack of access to services and information about sexual and reproductive health and rights for women and girls in Manila City;

(e) That Sorsogon City adopted Executive Order No. 3 in February 2015, which resulted in the withdrawal of modern contraceptives from city and community health facilities.

40. The Committee recommends that the State party fully implement, without delay, all the recommendations issued by the Committee in 2015 in the report on its inquiry (CEDAW/C/OP.8/PHL/1, paras. 49-52), including with regard to access to modern contraceptives and the legalization of abortion under certain circumstances.

ECONOMIC EMPOWERMENT OF WOMEN

41. The Committee welcomes the initiatives taken by the State party to develop a social protection floor, but is concerned that women living in poverty in rural and urban areas, in particular those working in the informal sector, lack access to social security.

42. With reference to its general recommendations No. 16 (1991) on unpaid women workers in rural and urban family enterprises and No. 34 (2016) on the rights of rural women, the Committee recommends that the State party:

(a) Ensure that women engaged in unpaid work or in the informal sector, both in rural and urban areas, have access to non-contributory social protection and that those employed in the formal sector have access to contributory social security benefits in their own right, irrespective of their marital status;

(b) Adopt gender-responsive social protection floors to ensure that all rural women have access to essential health care, childcare facilities and income security, in line with article 14 (2) (b), (c) and (h) of the Convention and the Social Protection Floors Recommendation, 2012 (No. 202), of ILO.

RURAL WOMEN

43. The Committee is concerned that women living in rural areas are disproportionately affected by poverty and by food and water insecurity as a result of the discrimination that they face in relation to income, to access to land tenure, to extension services and training, and to participation in decision-making. In particular, the Committee is concerned that women benefit significantly less from the outcome of agrarian reforms, depriving them of access to productive resources. Furthermore, it is concerned that land appropriation and the resulting displacement due to extractive industries, development projects and disasters continue to affect rural women disproportionately.

44. With reference to its general recommendation No. 34, the Committee recommends that the State party:

(a) Ensure that rural women have access to adequate food, nutrition, water and sanitation, taking into account international human rights standards on such rights;

(b) Eliminate income discrimination against rural women as compared with rural men, and

improve rural working conditions by setting living wages, with urgent attention paid to the informal sector;

(c) Ensure the integration and mainstreaming of a gender perspective into all agricultural and rural development policies, strategies, plans and programmes, enabling rural women to act and be visible as stakeholders, decision makers and beneficiaries;

(d) Disseminate the text of the general recommendation in local languages throughout municipalities with the aim of raising awareness about its recommendations, especially among local non-governmental organizations.

DISADVANTAGED GROUPS OF WOMEN

45. The Committee is concerned:

(a) That Muslim women, indigenous women, women with disabilities, women migrant workers working and returning from abroad, internally displaced persons and lesbian, bisexual and transgender women face a heightened risk of violence, exploitation and abuse, as well as discrimination in political and public life, marriage and family relations, employment, education, access to justice and health care;

(b) That Muslim, indigenous and other women living in rural areas are subjected to forced evictions and relocations as a result of large development projects and extractive industries;

(c) That the provisions of the draft Bangsamoro basic law may undermine the rights of indigenous peoples to ancestral lands and domains;

(d) That there have been alleged cases of extrajudicial killings of, and gender-based violence against, women human rights defenders from indigenous communities.

46. The Committee recommends that the State party:

(a) Take measures to ensure equal rights, opportunities and protection for women facing multiple and intersecting forms of discrimination, taking into consideration the specific risks and particular needs of different groups and ensuring the full and meaningful participation of women representing such groups;

(b) Ensure that the policies, projects and practices relating to development and land governance, including those that may entail relocation, are fully in line with relevant international standards, including the basic principles and guidelines on development-based evictions and displacement (see A/HRC/4/18, annex I), and that victims of forced eviction and relocation are provided with effective remedies, including compensation, in a timely manner;

(c) Fully consult Muslim (Bangsamoro) and non-Muslim indigenous communities in order to identify and implement innovative solutions to land management that ensure women's rights in line with the rights of non-Muslim indigenous peoples enshrined in the Indigenous Peoples'

Rights Act of 1997 (Republic Act No. 8371) and the United Nations Declaration on the Rights of Indigenous Peoples, as well as with those of Bangsamoro communities;

(d) Investigate and prosecute all acts of violence against indigenous women human rights defenders, provide effective remedies to the victims and prevent the recurrence of such acts;

(e) Ensure the protection of internally displaced women from violence and their effective access to social services and economic development.

NATURAL DISASTERS AND CLIMATE CHANGE

47. The Committee welcomes the fact that the legal and policy framework relevant to natural disasters and climate change mainstreams gender-sensitive responses across government agencies. It is concerned, however, that this framework has not been effectively translated into practice.

48. The Committee recommends that the State party:

(a) Consistently prioritize the protection of women's rights, in particular protection from gender-based violence, in situation analyses, needs assessments and interventions relating to disaster risk reduction, preparedness and response to natural disasters, as well as in the mitigation of the negative impacts of climate change;

(b) Ensure the full and meaningful participation of women, including those who face multiple and intersecting forms of discrimination, in designing, implementing and monitoring relevant legal and policy frameworks;

(c) Regularly assess the effectiveness of relevant legal and policy frameworks in protecting women's rights with clear baselines and measurable indicators, and provide information on the achievements made in the next periodic report.

MARRIAGE AND FAMILY RELATIONS

49. The Committee welcomes the adoption of Republic Act No. 10655, which decriminalizes "premature marriage", namely, the remarriage of a woman during a certain period following the death of her husband or the dissolution of the marriage. The Committee also notes the fatwa on model family in Islam, adopted in 2015, which encourages Muslim young people to marry after 18 years of age and rejects gender-based violence against women as being inconsistent with sharia. The Committee is concerned, however, that inequality in marriage and family relations continues to exist under the law and notes with particular concern:

(a) The delay in the adoption of a bill to repeal the provision of the Family Code that grants a husband's decision supremacy over that of his wife with regard to community property, the exercise of parental authority and guardianship over a child;

(b) The prohibition on divorce in the State party, except under the Code of Muslim Personal Laws, and the costly and lengthy procedures for legal separation and annulment, which may have the effect of compelling victims of sexual and gender-based violence, especially those without resources, to remain in violent relationships;

(c) The contradictions between the provisions of the Magna Carta of Women and those of the Code of Muslim Personal Laws and customary laws applicable to Muslim and indigenous communities, which provide for unequal relations between husband and wife, including harmful practices such as polygamy and child and forced marriage, as well as unequal practices with respect to inheritance.

50. The Committee recommends that the State party:

(a) Expedite the harmonization of the Family Code and other laws on marriage and family relations with the Convention and the Magna Carta of Women and ensure the equality of women and men, both in marriage and upon the dissolution of marriage, including by expediting the adoption of the long- pending divorce bill and by taking into account the Committee's general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution;

(b) Intensify its efforts to raise awareness about the Convention among Muslim communities, including women, men and traditional and religious leaders, in particular by disseminating information on good practices of other Muslim countries with regard to the application of sharia in line with the Convention;

(c) Harmonize the Code of Muslim Personal Laws and indigenous and Muslim customary laws with the Convention and the Magna Carta of Women, in particular by explicitly discouraging polygamy with a view to prohibiting it and prohibiting child and forced marriage, through consultation with the communities concerned and local women's rights organizations;

(d) Eliminate the root causes of child and forced marriage, including poverty, conflicts and insecurity, as well as vulnerability to the impact of natural disasters;

(e) Ensure the full participation of women in decision-making and legislative processes at the national, local and community levels, including in the codification and interpretation of religious norms or customs on marriage and family relations.

BEIJING DECLARATION AND PLATFORM FOR ACTION

51. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.

2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

52. The Committee calls for the realization of substantive gender equality, in accordance with the provisions of the Convention, throughout the process of implementation of the 2030 Agenda for Sustainable Development.

DISSEMINATION

53. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the parliament and the judiciary, to enable their full implementation.

TECHNICAL ASSISTANCE

54. The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.

RATIFICATION OF OTHER TREATIES

55. The Committee notes that the adherence of the State party to the nine major international human rights instruments ** would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.

FOLLOW-UP TO THE CONCLUDING OBSERVATIONS

56. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 26 (a) and (b) and paragraph 40 above.

PREPARATION OF THE NEXT REPORT

57. The Committee invites the State party to submit its ninth periodic report in July 2020.

58. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).

** The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

PRESS RELEASE

July 5, 2016



MINING AFFECTS INDIGENOUS WOMEN HUMAN RIGHTS, PHIL WOMEN'S GROUPS SAID AT 64TH CEDAW SESSION

Geneva, Switzerland – Mining projects which encroached upon IP territories without our genuine consent causing a web of women human rights violations has been one of the statements issued by indigenous women and women's rights advocates from the Philippines in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 64th Session. The Philippines country report on CEDAW is under review on July 5, 2016.

Kakay Tolentino (left) delivering the groups' oral statement with Judy Pasimio (middle) during the CEDAW committee dialogue with the CSOs / Geneva. Photo by: WLB

Kakay Tolentino, from the Dumagat indigenous community, spoke on violence against indigenous women.

Tolentino represented the BAI (National Network of Indigenous Women). She said, "We would like to bring to the attention of the members of the Committee the increasing number of deaths, escalating human rights violations, intensifying poverty, and heightening of vulnerabilities of indigenous women."

She pointed out that despite the passage of the RA 9710 or the Magna Carta of Women (MCW) and the RA 8371 or the Indigenous Peoples Rights Act, laws containing provisions on equality and the protection of rights of indigenous women, the government has yet to fulfill its obligations to protect them and their communities from different forms of violence, including harassments and extrajudicial killings.

Based on their documentation, ninety (90) indigenous women and men became victims of extrajudicial killings, from July 2010-April 2016, under the Aquino administration. Most of those who have been killed are defenders of their rights from the corporate and state projects such as large-scale mining.

The killing of Juvy Capion was raised in the dialogue with the members of the CEDAW committee. Capion, a B'laan woman leader who was strongly opposed to the Sagittarius Mines, Inc. (SMI)- Xstrata Mining project in their ancestral domain, was killed by military men last October 18, 2012, along with her two young sons.

The groups also raised the patriarchal structure of leadership within indigenous communities and how it has the tendency to exclude women in decision-making processes.

“Active participation of women in decision-making regarding mining projects in their ancestral domains is shunned by the manner in which information is transmitted and consultations are conducted. No serious measures are being taken by the State to ensure indigenous women’s consent as part of the decision-making processes. On the other hand, mining corporations are not held accountable for their failure to do so.” Judy A. Pasimio, Coordinator of LILAK (Purple Action for Indigenous Women’s Rights) shared to the members of the CEDAW committee during the Philippine lunch briefing.

Pasimio added, “The Philippines national development framework geared towards the maximum utilization of the country’s natural resources for profit gives preferential treatments to foreign investments, whereby women human rights are being sacrificed. Gender biases and discrimination, patriarchal structures, and violence against women are being institutionalized to further the interests, particularly of the mining corporations.”

The shadow report jointly submitted by the Franciscan International, Franciscan Solidarity Movement for Justice, Peace and Integrity of Creation (FSMJPIC), LILAK and Alyansa Tigil Mina (ATM) focused mainly on the different forms of violations of women human rights brought about by the development framework which is exploitative, extractive and profit-oriented.

Other major concerns raised in the shadow report include the impact of mining on right to food – rural and indigenous women’s main source of livelihood dependent on forest, land and water, the right to health, and violence against indigenous women human rights defenders.

There were two other shadow reports focusing on the different forms of indigenous women human rights violations by the Philippine State submitted jointly by Tebtebba Foundation, Asia Indigenous Women’s Network, Bai (National Network of Indigenous Women), Teduray Women’s Group (TWG) and the Silingang Dapit sa Sidlakang Mindanao.

United Nations



Convention on the Elimination of All Forms of Discrimination against Women

CEDAW/C/PHL/CO/7-8

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Committee on the Elimination of Discrimination
against Women

Concluding observations on the combined seventh and eighth periodic reports of the Philippines*

1. The Committee considered the combined seventh and eighth periodic reports of the Philippines (CEDAW/C/PHL/7-8) at its 1405th and 1406th meetings, on 5 July 2016 (see CEDAW/C/SR.1405 and 1406). The Committee's list of issues and questions is contained in CEDAW/C/PHL/Q/7-8 and the responses of the Philippines are contained in CEDAW/C/PHL/Q/7-8/Add.1.

A. Introduction

2. The Committee appreciates the submission by the State party of its combined seventh and eighth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the constructive engagement of and oral presentation by the delegation, in addition to the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its multisectoral delegation, which was co-headed by the Permanent Representative of the Philippines to the United Nations Office and other international organizations in Geneva, Catherine Rebong, and by Foreign Affairs Adviser, R...

