

**INDIVIDUAL COMPLAINT TO THE HUMAN RIGHTS COMMITTEE
UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON CIVIL AND POLITICAL RIGHTS**

3 December 2013

I. Information Concerning the Complaint

THE AUTHORS:

List of the Complainants who authorize the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), the Western New England University School of Law International Human Rights Clinic and Defend Job Philippines to represent them before the international justice authorities:

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| 1. Dionisio Garsain Sr. | 29. Jhody Ybona |
| 2. Dionesio Garsain Jr. | 30. Glen Antiporta |
| 3. Edwin Bayhonan Sr. | 31. Cherry Ann Sy |
| 4. Merla Alcober | 32. Allan V. Martinez |
| 5. Lito Limas | 33. Teodoro Balais |
| 6. Roberto Garcia | 34. Amado Balais |
| 7. Ema Meca | 35. Glenda Acebo |
| 8. Violeta Hamtig | 36. Isabelo Acebo |
| 9. Madilyn Cañeda | 37. Myrna Suyat |
| 10. Elden Peñaranda | 38. Gena Acebo |
| 11. Maricel Cañeda | 39. Feliciano Degayco |
| 12. Wilfredo Diaresco | 40. Monico Calong |
| 13. Jerrica Diaresco | 41. Istanislao Gerlado Jr. |
| 14. Jaime Balais | 42. Rosendo Palanas |
| 15. Liza C. Fariscal | 43. Josefina Escuadro |
| 16. Nowaf Louied Vargas | 44. Rodolfo Escuadro |
| 17. Ellen Solis | 45. Perlita Alacha |
| 18. Edwin Bayhonan Jr. | 46. Angelina Obasan |
| 19. Antolin Peñaranda | 47. Mark Angelo Obasan |
| 20. Minerva Poñtaneles | 48. Carlito Aguja |
| 21. Remegio Reñaranda | 49. Gabriel Subong |
| 22. Joan Bentilanon | 50. Ricardo Mosquera |
| 23. Marites Bacolod | 51. Minerva Acebo |
| 24. Ludevina Gutiza | 52. Arnel Balugo |
| 25. Virginia Caber | 53. Cris Elizondo |
| 26. Anthony Caber | 54. Arnel Cayetano |
| 27. Arleth Magaway | 55. Dolores Cayetano |
| 28. Susana Ybona | 56. Aldrin Bentilanon |

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| 57. Rosalie Bañas | 79. Dino Abaredes |
| 58. Constancio Bayhonan | 80. Teresita Avorque |
| 59. Denes Landiza | 81. Analezel Geraldo |
| 60. Augusto Vilorio | 82. Nonita Diaresco |
| 61. Mary Icelle Geronimo | 83. Fortunata Paz |
| 62. Corazon Buban | 84. Primitiva Penaranda |
| 63. Senen Buban Jr. | 85. Josefina Penaranda |
| 64. Ralph Grigor Buban | 86. Clinton Santos |
| 65. Conchita Moral | 87. Jordan Acebo |
| 66. James Jaresco | 88. Paolo Rellermo Jr. |
| 67. Gelbee Garsain | 89. Salvacion Calong |
| 68. Franca Astillia | 90. Paz Pontanales |
| 69. Lloyd Gamayon | 91. Gerena Quintana |
| 70. Genelyn Rowell | 92. Milagros Mateo |
| 71. Paz Pontañeles | 93. Senen Buban Sr. |
| 72. Senen Buban Sr. | 94. Asuncion Garsain |
| 73. Janet Palanas | 95. Paul Jason Garsain |
| 74. Roy Velez | 96. Nelson Sy |
| 75. Amelita Bravante | 97. Noelson Sy |
| 76. Glenda Leonor (on behalf of her
deceased son, Arnel Leonor) | 98. Kevin Asaldo |
| 77. Mary Homo (on behalf of her
deceased husband, Antonio Homo) | 99. Joel Villanueva Javier |
| 78. Alvaro Hamtig | 100. Roger Gavino |
| | 101. Abel Bantolo |

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STATE PARTY:

Philippines, ratified the International Covenant on Civil and Political Rights (ICCPR) on 23 October 1986 and the Optional Protocol to the Covenant on 22 August 1989.

VIOLATIONS:

Articles 2, 6, 7, and 17

II. Statement of the Facts

1. The specific incident at issue in this Individual Complaint is the forced eviction that took place on 11 January 2012 at Barangay Corazon de Jesus, San Juan City, Philippines along with accompanying violence and harassment of leaders from the evicted community and supporting human rights defenders.

2. In Corazon de Jesus, the residents were forcibly evicted from their homes of over sixty years to make way for the construction of a city hall and other commercial developments.¹ The property on which houses were built was historically public land considered a safe area, and most of the residents have lived there since the 1950s.² While a previous government issued a Proclamation awarding the land in question to the residents, the current government has refused to respect that Proclamation and has conducted a series of violent forced evictions, including the forced eviction of the Corazon de Jesus community at issue in this Individual Complaint.³

3. Instead of honoring the previous government's prior commitment to the residents, the Philippines has now pursued a legal strategy to legitimize their dispossession.⁴ On 6 October 1987 former President Corazon Aquino issued Proclamation No. 164 which excluded certain parcels of land from development as they were being used for residential purposes. However, the Philippine Supreme Court noted in 1997, that this proclamation was a usurpation of

¹ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, available at: <http://demolitionwatch.wordpress.com/2012/02/06/second-formal-complaint-of-corazon-de-jesus-residents-filed-to-the-united-nations-special-rapporteur-on-adequate-housing/>

² Id.

³ Id.

⁴ *Municipality of San Juan, Metro Manila v. Corazon de Jesus Homeowners Association et al*, G.R. No. 125183, (S.C., September 29, 1997) (Phil).

legislative power by former President Corazon Aquino.⁵ The Urban Development and Housing Act of 1992 is the governing law on the matter of squatting in the Philippines. Under this act “[e]viction or demolition as a practice shall be discouraged.”⁶ However, eviction or demolition may still be allowed in certain circumstances, for example, “when there is a court order.”⁷ With the government and the courts denying the residents their legitimate claim to the land, the residents have no legal recourse to contest their eviction.

4. The affected residents of Corazon de Jesus were given no individualized notice of the pending eviction. On 5 December 2011, 121 families were ostensibly issued a notice of eviction. However, the notice was not personally given and received by the affected families. Rather, the notice was left at the Barangay Hall of Corazon de Jesus. Due to this inadequate notice most residents were left unaware of its existence.⁸ On 6 January 2012, authorities posted a second inadequate notice on the front door of one of the houses in front of the community stating the residents had three days to vacate their homes.⁹ Compounding the procedural inadequacy of failing to deliver the notice directly to the residents, the notice posted on 6 January 2012 lacked specifics, including the names and addresses of those targeted for eviction.¹⁰ These publicly posted notices do not satisfy any definition of appropriate, adequate and timely notice to residents, nor did they provide any opportunity for the residents to present their opposition to the demolition or to participate in discussions surrounding relocation.¹¹

5. Without any further efforts to provide individual notice to area residents, on the morning of 11 January 2012, police blocked residents from entering their homes, and police and demolition teams were posted all around the community.¹²

6. In an effort to resist the forced eviction, residents organized a peaceful human blockade to prevent the demolition of their homes. Despite their peaceful tactics, police officers armed

⁵ Id.

⁶ Section 28, Republic Act No. 7279, available at: <http://www.lawcenter.ph/law-library/laws/republic-acts/an-act-to-provide-for-a-comprehensive-and-continuing-urban-development-and-housing-program-establish-the-mechanism-for-its-implementation-and-for-other-purposes/>

⁷ Id.

⁸ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

with assault rifles and tear gas violently attacked the residents. Fire trucks were used to blast the residents with water. Police fired their weapons and were able to break the human barricade by dispensing six to ten canisters of tear gas into the residents.¹³

7. The police and demolition team managed to raze more than 120 homes, rendering 121 families homeless. In the face of opposition of the local residents to their forced eviction and forced relocation, the authorities achieved their goals through illegal arrests and brutality, causing multiple injuries. Twenty-four residents were illegally arrested, including minor children. Six minors were released the evening of 11 January 2012. Twenty-three residents were brutalized by the police and demolition teams and documented their injuries; this number also includes minor children. The number of victims exceeds the number of documented cases.¹⁴

8. In addition to the families who have been forcibly and violently evicted, more than 1,000 families in Corazon de Jesus are threatened by imminent similarly brutal eviction tactics by the government.¹⁵ In Corazon de Jesus, people were forcibly and violently evicted from locations designated as safe areas and forced to relocate to locations declared as danger zones, where they face inadequate housing, lack of employment, and lack of social services. Dislocated residents are forced to incur additional expenses for transportation and other basic needs.¹⁶

9. One wholly unacceptable, government allocated, relocation site was Lupang Arenda. The lack of adequate housing and employment opportunities is compounded by its designation as a danger zone by the Philippines Department of Environment and Natural Resources, with resulting risks to the health and lives of the evictees. In October 2009, Lupang Arenda was given emergency aid by the American Red Cross for a typhoon that had flooded the area.¹⁷ Residents who were recently evicted were brought to a relocation site in Southville 1-K-1 Kasiglahan, Montalban Rizal, which not only lacks adequate employment opportunities and social services but was also recently flooded in August 2012 with resulting risks to the health and

¹³ Id.

¹⁴ Id.

¹⁵ Demolition Watch, *Forced Eviction Incidents*, available at: <http://demolitionwatch.wordpress.com/forced-eviction-and-demolition-incidents-and-affected-families-2010-2012/>

¹⁶ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

¹⁷ RTBot, *Red Cross Rizal Medical Mission at Lupang Arenda*, Oct. 18, 2009, http://www.rtbot.net/Lupang_Arenda

lives of the evictees.¹⁸

10. Furthermore, Philippine authorities have harassed, intimidated and threatened the Complainants and their advocates and allies. For instance, in late 2012, arrest warrants were issued for two founding Board of Directors of Defend Job, Ms. Amelita Bravante Gamara and Mr. Roy Velez. These warrants are based on false charges of murder, however, neither Ms. Bravante Gamara or Mr. Velez have seen the substance of these warrants or have been provided with documentation of the exact charges against them.

III. Admissibility

11. The Urban Development and Housing Act of 1992 (UDHA) generally prohibits forced eviction, but does allow eviction in certain circumstances. Under UDHA, eviction or demolition is allowed “[w]hen government infrastructure projects with available funding are about to be implemented; or [w]hen there is a court order for demolition.”¹⁹ The circumstances in Corazon de Jesus do not meet the definition of unavoidable eviction, according to international standards. Furthermore, the UDHA provides that “[a]dequate consultations on the matter of resettlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated í [and there shall be] no use of heavy equipment for demolitioní .”²⁰ There were no reported instances of any consultation on the matter of resettlement with any representatives of the Corazon de Jesus community prior to the forced eviction. Furthermore, there were many reports of the usage of bulldozers and water cannons during the eviction which certainly qualify as heavy machinery.

12. Section 10, Article XIII of the 1987 Constitution dealing with Social Justice and Human Rights states that “[u]rban and rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in just and humane manner.”²¹ However the use

¹⁸ Maricar Cinco, *Thousands flee homes in Rizal due to floods, rising Marikina river*, Inquirer Southern Luzon, August 6, 2012 available at: <http://newsinfo.inquirer.net/243819/thousands-flee-homes-in-rizal-due-to-floods-rising-marikina-river>

¹⁹ Section 28, Republic Act No. 7279, *supra* footnote 6.

²⁰ *Id.*

²¹ Article XII, Section 10, 1987 Constitution of the Republic of the Philippines, available at: <http://philippinelaw.info/constitution/1987-constitution-article-xiii.html>

of bulldozers, machine guns and even snipers is in no way compatible with any definition of humane. The Constitution, like the UDHA, states that “[n]o resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.”²² It is quite clear that there was no effort to consult the communities and no records of consultations with any of the communities to which the displaced residents were relocated. In fact, the many reports of flooding in the different relocation sites show that the level of consideration of the relocation sites was slight at best.

13. Notwithstanding the above-mentioned national legislation, there are no mechanisms in place for the citizens of the Philippines to challenge forced evictions or seek remedy for the loss they suffer, despite their efforts to avail themselves of the remedies offered by the domestic courts.²³ On 1 June 1988, the Corazon de Jesus Homeowners Association Inc. filed a petition against the Municipal Mayor and Engineer of San Juan and the Curator of the Pinaglabanan Shrine, to enjoin them from either removing or demolishing the houses of the association members. The association claimed that the lots they were occupying were awarded to them by Proclamation No. 164. The Court of Appeals granted the petition, however the Supreme Court overturned that decision. The Supreme Court relied on Presidential Decree No. 1716 which was issued by President Ferdinand E. Marcos which reserved for the government certain parcels of public land, including Corazon de Jesus. According to the Supreme Court “[p]roclamation No. 1716 was issued by the late President Ferdinand E. Marcos in the due exercise of legislative power. Being a valid act of legislation, said Proclamation may only be amended by an equally valid act of legislation.”²⁴ Proclamation No. 164 which was enacted by President Corazon Aquino was viewed by the Supreme Court as invalid as President Aquino assumed power under the rein of a revolutionary government.²⁵ It is for this reason alone that the Supreme Court refused to acknowledge Proclamation No. 164. This decision is still valid, and the Courts still refuse to accept Proclamation No. 164. As result, there are no available domestic remedies for the Complainants to challenge their forced eviction.

²² Id.

²³ Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, The Philippine Star, March 20, 2012, <http://www.philstar.com/Article.aspx?articleId=788990&publicationSubCategoryId=>

²⁴ Municipality of San Juan, Metro Manila v. Corazon de Jesus Homeowners Association et al, G.R. No. 125183, (S.C., September 29, 1997) (Phil).

²⁵ Id.

14. Furthermore, as discussed above, rather than having access to any domestic remedies, the Complainants now face obstacles, including arbitrary arrest, harassment and violence, for seeking any redress at the domestic level. These obstacles are now also being faced in the context of the Complainants seeking international accountability and remedies, including meetings to discuss this Individual Complaint to the Human Rights Committee. Indeed, on 29 November 2012, ten community leaders from Corazon de Jesus were issued arrest warrants, and one of them, Ms. Marites Bacolod, was arrested and detained until 5 December 2012. These community leaders had been meeting to discuss this Individual Complaint to the Human Rights Committee, including a meeting on 17 November 2012 with the additional families still threatened by forced eviction. The ten were initially charged with unlawful assembly. While these charges were ultimately dismissed for lack of evidence, on 24 May 2012 the court held that the ten community leaders failed to make a court appearance and charged them with simple disobedience to an agent of a person in authority.

15. As for other admissibility criteria, this claim has not been submitted to nor is it otherwise being considered by another mechanism of international settlement and the violations at issue occurred subsequent to the entry into force of the ICCPR and the OP-ICCPR with respect to the Philippines.

IV. Law

A. Violation of Article 2 of the Covenant

16. Article 2 is relevant as both a general obligation clause as well as with respect to the issue of admissibility. In addition to providing the general obligation clause of the ICCPR and requiring legislative and other measure to give effect to Covenant rights, Article 2(3) requires that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.²⁶ As the government authorizes and carries out the violent evictions under color of law,

²⁶ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at

no effective remedy is available to the residents of Barangay Corazon de Jesus in the domestic courts. Residents are provided with general, publicly posted notice shortly before the intended evictions are slated to begin, and are not individually informed of their pending eviction, nor are they provided any meaningful forum in which to contest the eviction. As soon as the residents are violently removed, their homes are demolished. The very short timeline from publicly posted notice to demolition provides them with no effective remedy or recourse as there is no waiting period in which they can challenge the evictions. Efforts by residents who attempt to access legal remedies to vindicate violations of their rights to their homes are summarily denied by the government who evicted them²⁷ or face harassment, violence or other threats.

17. Compounding the lack of access to legal remedies to contest the evictions, the citizens of citizens of the Philippines are not compensated for the loss of their homes, are provided with inadequate relocation assistance, and after their evictions are left in diminished circumstances with no recourse.²⁸

B. Violation of Article 6 of the Covenant

18. The right to life enunciated in Article 6 of the Covenant prohibits the arbitrary deprivation of life. The Human Rights Committee considers that States have the supreme duty to prevent the arbitrary loss of life.²⁹ This is of paramount importance. The duty of the State is not only to prevent deprivation of life through criminal acts but also to prevent the arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity.³⁰

19. To date, ten people have been killed in the Philippines as a result of the violent forced evictions in the Silverio Compound, San Dionisio, Paraque and Pangarap Village, Calocan.³¹ Antonio Homo (killed on March 16, 2011 inside his house during resistance against the

52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976

²⁷ Municipality of San Juan, Metro Manila v. Corazon de Jesus Homeowners Association et al, G.R. No. 125183, (S.C., September 29, 1997) (Phil).

²⁸ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

²⁹ Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994).

³⁰ *Id.*

³¹ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

demolition in Sitio Kadiwa Navotas), Sol Gomez (Pangarap Village), Marlyn Sumera (a journalist from Malabon City opposing demolition in the area) , Erning Gulfo (urban poor leader from Malabon) , Malou Valle (urban poor leader from Tondo) and four others. More recently, on 23 April 2012, Arnel Leonor, a resident from the Silverio Compound died due to a gunshot wound to the head during a bloody and violent demolition.³² There were reports of policemen firing warning shots into the crowds and snipers targeting leaders of the community during the eviction.³³ The state itself was responsible for depriving its citizens of the right to life in an arbitrary manner in contravention of Article 6 of the Covenant.

C. Violation of Article 7 of the Covenant

20. Article 7 of the Covenant explicitly prohibits torture or cruel, inhuman or degrading treatment or punishment. Its purpose is to protect the integrity and dignity of the individual.³⁴ The Human Rights Committee accepts that many acts that may fall under the umbrella of torture and has concluded that forced eviction in and of itself may amount to cruel, inhuman or degrading treatment.³⁵ It is impractical to draw sharp distinctions between the various prohibited forms of treatment or punishment. These distinctions depend on the kind, purpose and severity of the particular treatment.³⁶

21. In an attempt to resist their forced eviction, residents of Corazon de Jesus organized a peaceful blockade to prevent the demolition of their homes. In response the demolition teams threw stones at the human barricades of residents followed by water bombs. The police also hurled teargas at the gathering of residents to break the barricade. Hundreds of policemen and demolition teams were deployed to disperse and arrest residents who were simply asserting their right to stay in their communities.³⁷

³² Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, The Philippine Star, March 20, 2012, <http://www.philstar.com/Article.aspx?articleId=788990&publicationSubCategoryId=>

³³ COMMENT FROM DEFEND JOB

³⁴ Human Rights Committee, General Comment 7, Article 7 (Sixteenth session, 1982), U.N. Doc. HRI/GEN/1/Rev.1 at 7 (1994).

³⁵ *See, e.g.*, Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (3 September 2010); *see also* Human Rights Committee, Concluding Observations of the Human Rights Committee: Israel, UN Doc. CCPR/CO/78/ISR, (21 August 2003).

³⁶ *Id.*

³⁷ Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, The Philippine Star, March 20, 2012, <http://www.philstar.com/Article.aspx?articleId=788990&publicationSubCategoryId=>

22. In Corazon de Jesus, San Juan City during the period 25 January 2011 to 11 January 2012, 86 people were injured by demolition teams and police. The police were armed with M14 and M16 rifles and 45 caliber handguns as well as water bombs and tear gas.³⁸ On 11 January 2012, 23 individuals were injured when the demolition team and police forced their way onto the community with the use of a bulldozer. Twenty-four persons were illegally arrested; of these six were minors and one was a senior citizen. Their injuries range from beatings to casualties from the teargas. Aside from using a bulldozer and a fire truck, the demolition team threw stones at the human barricades of residents followed by water guns. The police used 6-10 canisters of teargas³⁹ and also beat the residents with their clubs and fired guns aimlessly to threaten the resisting residents.⁴⁰

23. The Committee imposes a duty on public authorities to ensure protection against inhumane treatment.⁴¹ Twenty-four residents and supporters were illegally arrested during and after the confrontation. Those that were arrested were beaten by the police and demolition team. The police continued to harass and threaten the affected residents directly after the demolition, which occurred on 11 January 2012 through the evening of 13 January 2012.

24. Consequently, the government's ongoing threat of eviction and the violence and use of force that accompanied the forced eviction of the Complainants rises to the level of torture as well as cruel, inhuman or degrading treatment or punishment.

D. Violation of Article 17 of the Covenant

25. The view of the international community on forced evictions is clear. The UN Commission on Human Rights states that the practice of forced evictions constitutes a gross violation of human rights.⁴² Article 17 of the Covenant provides for the right of every person to be protected against arbitrary or unlawful interference with his or her home. In the view of the Human Rights Committee, this right is guaranteed against all interferences and attacks whether

³⁸ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

³⁹ *Id.*

⁴⁰ Human Rights Online Philippines, *Labor NGO condemns violent demolition in San Juan*, Jan. 18, 2012, available at: <http://hronlineph.com/2012/01/18/press-release-labor-ngo-condemns-violent-demolition-in-san-juan-ctuhr/>

⁴¹ Human Rights Committee, General Comment 7, Article 7, *supra* footnote 38.

⁴² Commission on Human Rights Resolution 1993/77 (10 March 1993); Commission on Human Rights Resolution 2004/28 (16 April 2004).

they emanate from State authority or others.⁴³

26. The Human Rights Committee has previously concluded that forced eviction and demolition of housing violates Article 17 of the Covenant, including in contexts where the land in question is not owned by the evictees. For instance, in its Concluding Observations on Kenya in 2005 the Committee found that violations of Article 17 had occurred when forced evictions had been conducted.⁴⁴ It did so again in its Concluding Observations on Israel in 2010.⁴⁵

27. The present case involves forced eviction from long-standing homes on public land, similar to the case of *Liliana Assenova Naidenova et al. v. Bulgaria*⁴⁶ decided by the Committee in November 2012. In *Liliana Assenova Naidenova et al. v. Bulgaria*, the Human Rights Committee held that forced evictions rise to a violation of Article 17 when they are forced evictions from long-standing homes, those evicted face the risk of being rendered homeless or are rendered homeless, and where there are no or inadequate consultation regarding the provision of adequate alternative housing. The Committee should apply the same reasoning to the present case and find a violation of Article 17 on account of the forced eviction of the Complainants.

28. In the metropolitan area surrounding Manila alone, more than 50 incidents of violent evictions have been documented, demonstrating that forced evictions are occurring in the Philippines with impunity.⁴⁷ These evictions took place in nineteen communities and affected more than 16,000 families.⁴⁸ During the period January 2011 to January 2012, more than 240 families from Corazon de Jesus have been violently and forcibly evicted from their homes. Many of these forced eviction incidents were arguably under color of law due to court orders, while other evictions were carried out without the imprimatur of legal authority. The victims of the violent displacements generally come from poor families who lack the resources to defend

⁴³ Human Rights Committee, General Comment 16, Article 16, *supra* footnote 25.

⁴⁴ *See*, Human Rights Committee, Concluding Observations: Kenya, UN Doc. CCPR/CO/83/KEN (29 April 2005).

⁴⁵ *See*, Human Rights Committee, Concluding Observations: Israel, UN Doc. CCPR/C/ISR/CO/3 (3 September 2010); *see also* Human Rights Committee, Concluding Observations of the Human Rights Committee: Israel, UN Doc. CCPR/CO/78/ISR, (21 August 2003), para. 16.

⁴⁶ Human Rights Committee, *Liliana Assenova Naidenova et al. v. Bulgaria*, Communication No. 2073/2011 (14 November 2012)

⁴⁷ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

⁴⁸ Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, *The Philippine Star*, March 20, 2012, available at: <http://www.philstar.com/Article.aspx?articleId=788990&publicationSubCategoryId=>

their rights in courts, even if such remedies were available in the Philippines. This is the context in which the Complainants were forcibly evicted on 11 January 2012.

29. The expression arbitrary interference notes that the protection of Article 17 extends to interference provided for under the law. According to the Human Rights Committee, the introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by the law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.⁴⁹ Although the government posted a general notice of eviction at Barangay Hall in Corazon de Jesus on 6 January 2012, individual notice was not provided to the affected families and in any event the short time period from the notice to the actual eviction was far too short for the Complainants to challenge the evictions. A second notice was posted from the City Hall announcing that the families had only three days to vacate the community, although no name and place as to where the demolition will take in the said notice.⁵⁰

30. The Human Rights Committee in its *Liliana Assenova Naidenova et al. v. Bulgaria* decision also held that a State party should ensure that evictions from settlements do not occur unless those affected have been consulted and appropriate resettlement arrangements have been made.⁵¹ As aforementioned, this right of consultation prior to evictions is also enshrined in the 1987 Philippine Constitution, addressing Social Justice and Human Rights. In this case, the residents of Corazon de Jesus were not consulted in any way prior to or during the evictions. The resettlement arrangements provided by the government were far below any reasonably acceptable or comparable standards, and far inferior to the living conditions in Corazon de Jesus preceding the evictions. As noted above, the alternative solutions being provided to the families evicted from Corazon de Jesus are deplorable at best. The residents were relocated to sites in Lupang Arenda previously declared a danger zone by the Philippines Department of Environmental and Natural Resources resulting in risk to their health and lives.⁵² The residents

⁴⁹ Human Rights Committee, General Comment 16, Article 16, *supra* footnote 25 (emphasis added).

⁵⁰ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

⁵¹ *Liliana Assenova Naidenova et al. v. Bulgaria* (Communication No. 2077/2011)

⁵² Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

were given an entry pass for two years, however when they arrived at the site they found that no houses had been built, instead temporary shelters were constructed. The residents that were relocated to Lupang Arenda face eviction again as their two year contract has expired.⁵³ This eviction can take place at any time. Another relocation site is located in the Rodriguez, Rizal province⁵⁴ which experienced severe flooding in August of 2012.⁵⁵ The residents relocated to this province have no access to work, facilities and social services such as hospitals and education, must subsist in substandard housing, and incur additional expenses for transportation and other basic needs, such as a monthly rent to occupy a small piece of land. Many parents were forced to withdraw their children from school. Many dissatisfied residents return to their prior communities as they consider Corazon de Jesus to be more habitable.⁵⁶ Many residents have opted to stay in Corazon de Jesus as they have no other viable options left. They live in makeshift tents, as small as animal cages, with no water or electricity.⁵⁷

31. Much like the case in Corazon de Jesus, the Dobri Jeliaskov community was an established community that received inadequate notices of eviction, whose homes were threatened with demolition and who did not receive adequate alternative housing. The Human Rights Committee condemned this threatened forced eviction and demolition of homes.⁵⁸ The Committee, through decisions such as *Liliana Assenova Naidenova et al. v. Bulgaria*, makes clear that evictions of long-standing communities situated on public land should not occur unless alternative adequate housing is provided to those evicted. As the facts above demonstrate, alternative adequate housing was not provided to the petitioners nor were they allowed to meaningfully participate in decisions related to the provision of such housing.

32. The Committee fully acknowledges a right to development. However this development must have a human-rights based perspective. The needs of the members of the community that faces eviction must be prioritized in any urban development scheme rather than having urban

⁵³ As this report was being prepared the residents of Lupang Arenda faced no imminent threat of eviction.

⁵⁴ Demolition Watch, *Second Formal Complaint to UN by Corazon de Jesus Residents on Adequate Housing*, Feb. 6 2012, *supra* footnote 1.

⁵⁵ Maricar Cinco, *Thousands flee homes in Rizal due to floods, rising Marikina river*, Inquirer Southern Luzon, August 6, 2012 available at <http://newsinfo.inquirer.net/243819/thousands-flee-homes-in-rizal-due-to-floods-rising-marikina-river>

⁵⁶ *Id.*

⁵⁷ Pia Lee-Brago, *Complaints on Violent Demolitions Filed Before UN*, The Philippine Star, March 20, 2012, available at <http://www.philstar.com/Article.aspx?articleId=788990&publicationSubCategoryId=>

⁵⁸ *Liliana Assenova Naidenova et al. v. Bulgaria* (Communication No. 2077/2011)

development schemes result in further impoverishment.⁵⁹ It is quite clear, in the case of Corazon de Jesus, that the residents were left in a much worse off state than before the forced eviction. Many lost any form of employment and social services. In many cases the relocation sites were prone to severe flooding and permanent shelters were not erected causing risk to health and life.

VI. Conclusions

33. The Philippine government, through the forced eviction of the Barangay Corazon de Jesus community, has violated Articles 2, 6, 7, and 17 of the International Covenant on Civil and Political Rights.

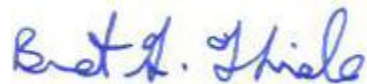
34. Remedies should also include providing of a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats in Corazon de Jesus.

35. All residents of Corazon de Jesus who were improperly relocated should be transferred to a suitable location with proper access to work, basic facilities and adequate social services and these residents must be allowed the right to actively, freely and meaningfully participate in any decision related to this issue.

36. The Philippine government has violated Articles 6 of the International Covenant on Civil and Political Rights for the deaths that occurred during the forced eviction.

37. The Philippine government should halt any intimidation, harassment or other forms of retaliation against the Authorø of this Communication or their advocates.

Respectfully Submitted,



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⁵⁹ Id.

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