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**Committee on the Application of Standards**

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**Information supplied by governments on  
the application of ratified Conventions**

**Philippines**

Convention No. 87

**Freedom of Association and Protection of the Right to Organise Convention,  
1948 (No. 87)**

**Philippines** (Ratification: 1953). The Government has provided the following written information.

In six years of sustained constructive engagement with the ILO, the Government has diligently reported concrete results, framed in our four (4) areas of commitment.

The National Tripartite Industrial Peace Council (NTIPC) constituted and institutionalized as the high-level monitoring body with regional tripartite monitoring structures, the Regional Tripartite Monitoring Body (RTMB), has built a comprehensive inventory of **65 cases of extra judicial killings (EJK), 11 cases of abduction and 12 cases of harassments**. Of the 65 cases, 50 occurred from 2001 to June 2010 under the Arroyo Administration while 15 – the case of **Rodel Estrellado, Kenneth Reyes, Rudy & Roderick Dejos, Bonifacio Labasan, Santos Manrique, Josephine Estacio, Carlo Rodriguez, Celito Bacay, Poncing Infante, Emilio Rivera, Romy Almacin, Antonio Petalcorin, Kagi Alimudin Lucman, Rolando Pango, and Florencio Romano** – are under the Aquino Administration.

The NTIPC-MB, with sitting 20 representatives each for employers' organization affiliate of the IOE and labor organizations affiliates of ITUC, is monitoring the movement of these cases, including the four resolved by the trial courts, these are: (1) **Teotimo Dante** which resulted to the conviction of all four accused on 28 May 2012; (2) **Ricardo Ramos** which resulted to the acquittal of the accused for failure to prove his guilt beyond reasonable doubt on 07 February 2012; (3) **Antonio Pantonial** which resulted to the conviction of the accused for murder qualified by treachery; and (4) **Fr. William Tadena** which resulted to the acquittal of one accused on reasonable doubt while the other accused is at-large.

The NTIPC-MB has brought before the Department of Justice (DOJ) chaired AO35-Inter-Agency Committee (AO35-IAC) all of the **65 cases of EJK, 11 cases of abduction and 12 cases of harassments**. AO35-IAC report however has focused on the 65 cases of EJK and of this number, 11 (**Diosdado Fortuna, Florante Collantes, Fr. William Tadena, Abelardo Ladera, Samuel Bandilla, Tirso Cruz, Gil Gojol, Benjamin Bayles, Rodel Estrellado and Rolando Pango**) have been identified as EJK based on their criteria/definition.

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The 54 cases not covered by AO35-IAC are investigated as regular criminal cases. According to the DOJ, the reasons for the exclusion from AO35-IAC include: (1) insufficiency of evidence which triggers referral of the case to agencies like the police, the National Bureau of Investigation and the Commission on Human Rights for further investigation subject to a second review by the technical working group; and (2) absence of all the elements of EJK as provided in the AO35-IAC Operational Guidelines.

The non-AO35 include cases before the Committee on Freedom of Association (CFA). Case No. 3185 was first brought to the attention of the Department of Labor and Employment through a press statement by the National Confederation of Transportworkers' Union (NCTU) and the Alliance of Progressive Labor (APL) in June 2013. The case was earlier with the Commission on Human Rights (CHR), the police, and the DOJ, which spearheads the AO35-IAC. Considering its exclusion from AO35-IAC, RTMB Region XI in Davao City was tasked to gather additional information on this case for possible second review by the AO35.

On CFA Cases Nos 3119 and 3159, reports from the different RTMBs were deliberated at the Tripartite Executive Committee of the NTIPC-MB (TEC-MB) on 06 May 2016. In Case No. 3119, out of the six (6) cases only the case of Cañabano is considered to be FOA-related but TEC-MB tasked RTMB XI to further verify and interview Mr. Cañabano and the radio anchor involved in the case of RMN Davao Employees Union. The TEC-MB elevates for consideration of the NTIPC-MB the case of Cañabano and the recommendation to refer the other five non-FOA cases to the Commission on Human Rights and the Advocate General Office of the Armed Forces of the Philippines (AFP).

Of the 65 cases of killings, only 12 were filed in court with nine of the cases with resolution and three – two cases ongoing investigation and one archived -- are pending resolution. Detailed breakdown of the status of the cases will be provided in a separate Report.

Progress even on the eleven (11) AO35-IAC cases is hindered by lack of material witnesses and/or non-cooperation of victims' families and relatives. The limited capacity on forensic evidence and reliance on witnesses/testimonial evidence render the prospect not too positive. The Government continues to hurdle desistance or disinterest of the victims or their families to pursue the case. Much needs to be done in the criminal justice system that brought this situation.

The Government addresses the source of the problem through wide-ranging reforms in labour market governance and sectoral goal of ensuring decent work under the ILO Technical Cooperation Program (TCP). The TCP with the ILO started only after the 2009 High Level Mission (HLM), or after 56 years from date of our ratification of Convention Nos 87 and 98 in 29 December 1953.

The ILO TCP on training and capacity-building can generally be classified into: (a) Capacity-Building and Advocacies on International Labour Standards, Freedom of Association and Collective Bargaining; and (b) Observance of Prescribed Conduct of the police and military.

Over 70 capacity-building activities on labor rights were carried out under the TCP. Around 4,384 stakeholders were oriented and capacitated on International Labor Standards, and on the observance of tripartite-developed instruments governing the engagement of social partners, including the police, military, and key government agencies, during labor disputes. The TCP activities resulted in:

- a) Key instruments governing the engagement of the social partners were developed: (1) Joint DOLE-PNP-PEZA Guidelines (*PNP Guidelines*), signed on 23 May 2011; (2) DOLE Administrative Order No. 104, Operational Guidelines on Inter-Agency Coordination and Monitoring of Labor Disputes (DOLE Implementors' DOs and DON'Ts), signed on 27 February 2012; (3) Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, AFP and PNP Relative to the Exercise of Workers' Rights and Activities (*AFP Guidelines*), signed on 07 May 2012; and (4) Operational Guidelines on the Regional Tripartite Monitoring Bodies.

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The PNP and AFP Guidelines have been effective in coordinating all stakeholders and prevent strike violence. In recent cases in Region 4A, violence was prevented when the newly engaged security agency was informed to observe the PNP guidelines and in PhilSteel labor dispute where the PNP has summoned the security agencies reported to have crossed the picket to explain why their license should not be revoked. In Davao labor disputes at Lapanday Box (banana plantation) and RMN (Radio Station), the PNP Guidelines mobilized multi-stakeholders participation in ensuring the peaceful exercise of workers' right during collective bargaining negotiations. In the labor dispute at Albay Electric Cooperative, Inc. (ALECO), where the management directly requested the PNP Legaspi Station police to enter into the company premises, the PNP Guidelines has helped prevent the supposed plan to dismantle the picketline. Information on the PNP and AFP Guidelines are now part of the DOLE standard operating procedure in labor disputes likely to ripen into a strike/lockout.

- b) To prevent conversion labor disputes into criminal cases, the DOJ has issued Memorandum Circular No. 16 on 22 April 2014 to reinforce Circulars Nos. 15, series of 1982, and 9, series of 1986, requiring fiscals/prosecutors to secure clearance from the DOLE and/or the Office of the President "before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding information of cases arising out of, or related to, a labour dispute", including with "allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation obstructing the free ingress, to and egress from, a factory or place of operation of the machines of such factory, or the employer's premises". The DOLE and DOJ further issued Joint Clarificatory Memorandum Circular No. 1-15 on the requirement of clearance from DOLE and/or from the Office of the President on cases arising out of the exercise of workers freedom of association, collective bargaining, concerted actions and other trade union activities.

The TCP includes a component on improvement on labor market governance. Together with the social partners, labor rights violation and labor-related incidence of violence were addressed by identifying the root causes of labor disputes. Hence, the mechanisms for labor laws compliance, dispute prevention, settlement and case disposition; along with an expanded and robust tripartite consultation with social partners on policy and program implementation were strengthened. These resulted to:

1. **Substantially improve implementation of labour laws.** The 2-year old ILO and tripartite partners supported new Labor Laws Compliance System (LLCS), with a Management Information System (an on-line, web-based application system that utilizes electronic checklist for real-time transmission and processing of data collected from the field) and combines regulatory and developmental enforcement approach, achieved remarkable accomplishments: (a) projected company visitations become more frequent, from once every 16 years to once every 2 years; (b) establishments covered increased, from an annual average of 23,000 in 2004-2013 to an annual average of 63,627 in 2014-2015; (c) workers covered increased, from an annual average of 628,000 in 2004-2013 to an annual average of 2.9 million in 2014-2015; (d) compliance with General Labor Standards increased, from 70.73% in 2004-2013 to 77.59% in 2014-2015; (e) correction rate increased, from 21% in 2004-2013 to 27% in 2014-2015; (f) enforces a total of 94 labor laws including regulation on contracting or ambiguous or disguised employment, as compared to only 23 under the old enforcement system; and (g) with 574 plantilla LLCOs as compared to the previous 202 labor inspectors. The tripartite partners endorsed House Bill No. 4659 in the 16th Congress to institutionalize the LLCS, and the same will be re-filed in the 17th Congress as part of the DOLE 2016-2022 Priority Legislative Agenda.

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2. **Effective case management system.** The 30-day mandatory conciliation-mediation services, or the Single Entry Approach (SEnA) for individual disputes was institutionalized through Republic Act No. 10396 along with exhaustive conciliation-mediation for collective disputes and over-all track of empowering the parties to process and resolve issues at the plant-level through convergence of DOLE's programs and services. ▯

SEnA, as a prior-resort, afforded workers and employers fair, prompt, accessible and inexpensive settlement of labor issues. It has shortened the processing of labor disputes to an average of 15 days as compared to the duration of one year to ten years in compulsory arbitration; 99% reduction of small money claims before the DOLE Regional Offices and reduction in the dockets of the National Labor Relation Commission (NLRC); and free and accessible services as it is lodged across all DOLE offices. SEnA has resulted to high settlement and disposition rates at 81% and 94% (102,382 cases settled and 128,257 cases disposed), respectively, from 2011 to 2015. It has benefitted around 154,439 workers with Php 4.951-B monetary awards.

3. **Unprecedented single-digit strike incidence.** Empowering the parties through exhaustive conciliation-mediation of collective labor disputes and rationalized use of Assumption of Jurisdiction power of the Secretary of Labor and Employment resulted to single-digit annual strike incidence from 69 in 2005-2010 to only 17 in 2011-2015; while on assumed cases, from 104 in 2005-2010 to just 14 in 2011-2015 punctuated with a decline in 2013 to 2015 to only three and was resolved through a conciliated order.
4. **Institutionalized expansive tripartism and social dialogue.** Tripartism and social dialogue is institutionalized through Republic Act No. 10395 as the primary instrument in promoting transparency, participative governance and sectoral accountability, addressing social disparity while improving social cohesion among all stakeholders. Several tripartite structures at the national level and across regions and industries were created to serve as venue for stakeholders' participation in policy- and decision-making processes on matters concerning labor and employment. As of January 2016, we have 134 Regional Tripartite Industry Peace Councils (TIPCs); nine national Industry Tripartite Councils (ITCs); and 284 regional ITCs. These structures are forum for tripartite advisement and precursor in developing regional or industry framework agreement. Thus, in these tripartite structures, a total of 178 industry Voluntary Codes of Good Practices on productivity and decent work were formulated from 2011 to 2015 to serve as voluntary industry standards.

Through social dialogue, the labor sector in the NTIPC was able to get commitment on linking investment incentives with compliance with international labor standards. To date, the creation of workers' rights board for specific industries or tariff lines that will be accessed under the GSP or FTA is being worked out with the Department of Trade and Industry.

At the workplace level, the single-digit strike indicates the growing acceptance of social dialogue, either by them or through conciliation-mediation, as an empowering tool for the parties to resolve their disputes. This has been recognized even by the militant section of the labor movement with big cases that historically would have strikes or lockouts, being settled through social dialogue.

Tripartism and social dialogue has never been as robust and productive as at it is in the current administration. The progress achieved through reforms implemented with support from social partners is good indicator of the constructive engagement ushered in by tripartism and social dialogue.

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With respect to the ILO HLM prescription to align the Labor Code, as amended, with International Labor Standards particularly, on Freedom of Association and Collective Bargaining, by amending the following: (a) Article 263(g) of the Labor Code, on overbroad assumption of jurisdiction power of the Secretary of Labor and Employment; (b) Article 234(c) of the Labor Code, requiring 20% support signatures for registration of independent unions; (c) Article 264 and 272 of the Labor Code, imposing penal sanctions for peaceful strikes; (d) Article 270 of the Labor Code, requiring prior approval for foreign assistance; and (e) Article 237(1) of the Labor Code, on the ten locals requirement for registration of federations, the proposed bills failed to pass during the remaining sessions of the 16th Congress. Thus, all shall, subject to the discretion of the incoming administration, be part of DOLE Legislative Priority Measures for the 17th Congress, including the following legislative proposals: (a) Security of Tenure Bill, Employment Relations, and Termination of Employment; (b) Rationalizing Government Intervention in Labor Dispute or the proposed modified Assumption of Jurisdiction Bill; (c) Magna Carta of Filipino Seafarers Bill; (d) LLCS Bill; and (e) Occupational Safety and Health Standards Bill.

However, pending the passage of the amendments, administrative issuances have been implemented and enforced through the ILO and tripartite partners supported Labor Laws Compliance System (LLCS), which contributed to the country's industrial peace.

While progress has been achieved, the TCP with the ILO arising from the 2009 HLM is not over. Reforms in labor market governance are foundational and its sustainability would benefit from technical assistance on: (a) conciliation-mediation techniques and strategies; (b) application of ILS in adjudication; (c) obtaining high-level of compliance with labor laws and management/development of the LLCS-MIS; (d) development/implementation of just transition and green jobs; (e) understanding non-standard forms of employment and policy approaches; and (f) business and human rights.

The track to address the source of the problem affecting our compliance with this Convention has shown positive results. The Government is committed to align the provisions of the Labor Code with C. 87 and 98, and to fully realize the potential of the NTIPC-MB and RTMBs in case build-up, the NTIPC has proposed a fully-funded, independent and capacitated case-based NTIPC-MB Tripartite Validating Team. The Validating Team will be constituted under NTIPC-MB auspices, on cases needing independent validation or review of the cases under CFA Cases Nos 3119, 3139 and 3185.

In closing, the Government affirms its commitment to obtain substantial progress on cases with allegations of trade union rights violations. The AO35 IAC and the National Monitoring Mechanism (NMM)<sup>1</sup> are already in place and work with the NTIPC-MB in ensuring progress in our observance of Convention Nos. 87 and 98, what remains to be done are the reforms in criminal justice system, which is forthcoming with the new Congress and under the administration of President Rodrigo R. Duterte.

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<sup>1</sup> The NMM is a tripartite body that brought together government agencies, NGOs, civil society organizations and independent national human rights institution (NHRI) in a credible and inclusive forum for monitoring the country's progress on the resolution of human rights violations cases, prioritizing EJKs, enforce disappearances, and torture in the immediate. The NMM has been regularly conducting its meetings. At present, the CHR together with the other concerned agencies including DOLE is conducting an audit or investigation into the Human Rights Situation at Semirara Island, Caluya, Antique following the accident at the open pit coal mine of Semirara Mining Corporation.