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2011 Country Reports on Human Rights Practices - Philippines

EXECUTIVE SUMMARY

The Philippines is a multiparty, constitutional republic. May 2010 national elections – which were generally free and fair but marked by incidents of violence and allegations of vote buying and electoral fraud – resulted in the selection of President Benigno S. Aquino III, members of the bicameral legislature, and leaders of provincial and local governments. Security forces reported to civilian authorities.

Leading human rights problems were as follows: continued arbitrary, unlawful, and extrajudicial killings by national, provincial, and local government agents and by antigovernment insurgents; an underresourced and understaffed justice system that resulted in limited investigations, few prosecutions, and lengthy trials of human rights abuse cases; and widespread official corruption and abuse of power.

Other human rights problems included allegations of prisoner/detainee torture and abuse by security forces, violence and harassment against leftist and human rights activists by local security forces, disappearances, warrantless arrests, lengthy pretrial detentions, overcrowded and inadequate prison conditions, killings and harassment of journalists, continued internally displaced persons (IDPs), violence against women, local government restrictions on the provision of birth-control supplies, abuse and sexual exploitation of children, trafficking in persons, limited access to facilities for persons with disabilities, lack of full integration of indigenous people, absence of law and policy

to protect persons from discrimination based on sexual orientation and gender identity, suspected vigilante killings, child labor, and ineffective enforcement of worker rights.

The government investigated and prosecuted only a limited number of reported abuses, and concerns about impunity persisted.

Long-running Communist and separatist insurgencies resulted in killings of soldiers and police in armed clashes. Terrorist organizations – Abu Sayyaf Group (ASG); Jemaah Islamiya (JI); and New People's Army (NPA), the military wing of the country's Communist Party – and rogue elements of the separatist Moro Islamic Liberation Front (MILF) killed security forces, local government officials, and other civilians. These organizations also were linked with kidnappings for ransom, bombings that caused civilian casualties, and reports of the use of child soldiers in combat or auxiliary roles.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were several reports that security forces committed a number of arbitrary and unlawful killings, including in connection with combat operations between government forces and Muslim rebels in parts of the islands of Mindanao (see section 1.g.). Killings of activists by security or paramilitary forces as well as killings of judicial officials and local government leaders by antigovernment insurgents continued to be serious problems.

The Commission on Human Rights (CHR), an independent government agency, investigated 78 new complaints of politically motivated killings involving 95 alleged victims during the year – a decrease from the 87 complaints investigated in 2010. The CHR suspected personnel from the Philippine National Police (PNP) were involved in 11 of the complaints and the Armed Forces of the Philippines (AFP) in seven others. Suspects in the remaining complaints were members of the terrorist NPA, ordinary citizens, or unidentified.

During the year the PNP Task Force Usig (TFU) – responsible for investigating and monitoring killings of media members, militant/labor activists, and foreigners – identified five new cases of killings in 2011 (using different criteria than the CHR). Of the 166 cases of such killings recorded since 2001 and monitored by the TFU, 103 were filed in court and prosecutors' offices, 62 were under investigation, and one was closed. There were no convictions of state actors during the year.

Reports by nongovernmental organizations (NGOs) on the number of alleged extrajudicial killings and torture cases during the year varied. The NGO Karapatan

(Alliance for the Advancement of People's Rights) recorded 39 victims of extrajudicial killings by government forces in 2011, compared with 46 victims in 2010. The credible *Report on Philippine Extrajudicial Killings: 2001-2010* recorded 21 extrajudicial killing victims from January to August 2011, compared with 19 victims in the comparable period of 2010. The NGO Task Force Detainees of the Philippines (TFDP) also reviewed allegations of summary executions by government security forces. It was unable to investigate all allegations it received but counted five cases involving five victims of alleged summary executions by government forces during the year, compared with nine cases involving 11 victims in 2010.

On February 25, four unidentified men abducted Rodel Estrellado, a farmer activist and member of Bayan Muna (a political party representing workers' organizations) in Malilipot, Albay Province. Two days later, his family confirmed that a body recovered in Bato, Camarines Sur Province, was that of Estrellado. A police investigation revealed that, hours before Rodel Estrellado's disappearance, a military spokesperson reported that alleged NPA member "Elmer Estrellado" was killed in an armed encounter in Bato and that a member of the military based in Tigaon, Camarines Sur Province, filed a report that same afternoon confirming the death of "Elmer Estrellado" in an operation in Bato. On May 19, Estrellado's wife filed a murder case with the Camarines Sur provincial prosecutor against nine AFP members. Authorities transferred the case from the Camarines Sur Provincial Prosecution Office to the Albay Provincial Prosecution Office, where preliminary investigation continued at year's end. The AFP suspended general court martial proceedings against the nine suspects when the murder case was filed and relieved them of their duties and responsibilities.

On November 30, a Manila court ordered the arrest of PNP Senior Inspector Joselito Binayug and six other police officers (former station commander Rogelio Rosales, Jr.; Joaquin de Guzman; Rodolfo Ong; Dante Bautista; Nonito Binayug; and Rex Binayug) for their involvement in the March 2010 torture and killing of detained robbery suspect Darius Evangelista in Manila. Television carried a video of the incident in August 2010, and authorities dismissed Binayug from the PNP on January 14 and stripped him of his pension and other benefits.

The trial before a designated "special court" that began in September 2010 of those accused of involvement in the 2009 massacre of 57 individuals in Maguindanao Province continued during the year. Of the 196 accused individuals, 65 suspects were detained and arraigned, 28 individuals were detained but arraignment was pending, and 103 suspects remained at large (including 10 police officers and four soldiers).

b. Disappearance

According to credible local human rights NGOs, government forces and antigovernment insurgents were responsible for disappearances. During the year the CHR investigated seven new cases of enforced disappearances, abductions, and kidnappings involving 30 victims, compared with 23 cases involving 107 victims in 2010. The CHR investigations implicated civilian perpetrators in the kidnapping of 16 individuals; antigovernment NPA insurgents in the kidnapping of seven individuals; and the PNP and AFP in the abduction of one victim each. Of the 30 victims, 19 returned to their families after being released by their captors, and two surfaced alive and reported they had not been detained or kidnapped. The CHR investigations implicated four PNP officials in one case and 10 unidentified members of the military in another.

The PNP Directorate for Investigation and Detective Management (DIDM) reported that authorities began proceedings against 393 PNP personnel during the year for various human rights violations and resolved 80 of the cases, as follows: cases against 52 individuals were dismissed/closed; 14 individuals were exonerated; seven individuals were suspended; three personnel were demoted; three personnel were dismissed from service; and one individual forfeited pay. The three dismissed personnel were in connection with cases involving murder, physical injury, and torture. At year's end another police officer was undergoing summary dismissal procedures for alleged involvement in a kidnap-for-ransom case, and authorities had investigated seven police officers for kidnapping and dismissed one of the cases.

During the year the NGO Families of Victims of Involuntary Disappearances (FIND) monitored four reported disappearance cases involving four victims and members of the military and police as suspects. As of year's end three were found alive, and one was still missing. Two victims had been in military custody and were detained at provincial jails facing criminal charges, while the military reportedly released the third.

Some victims' families asserted that courts and police failed to address adequately their complaints concerning disappearances in which security force involvement was suspected. A limited number of cases moved forward, and investigative and judicial inaction on previous cases of disappearance resulted in low rates of prosecution and conviction. Evidence of a kidnapping or killing is required to file charges, and in many cases evidence and documentation were unavailable or not collected. A Supreme Court rule enables family members of alleged victims of disappearances or any person whose right to life, liberty, and security has been violated or threatened to compel government agencies to provide statements in court about what they know of the circumstances of a disappearance or extrajudicial killing and the victims' status.

On July 5, the Supreme Court upheld the CHR findings that named First Lieutenant Harry Baliaga, Jr., an active-duty member of the army's 56th Infantry Battalion based in Bulacan Province, as the "principal by direct participation" in the 2007 abduction of activist Jonas Burgos, although it dropped former president Gloria Macapagal-Arroyo as a respondent in the case. The court issued a writ of habeas corpus and ordered the Court of Appeals to revive the habeas corpus case that Burgos's mother had filed that year against the military. At year's end the Court of Appeal's habeas corpus hearing continued. Burgos's mother had also filed arbitrary detention charges with the Department of Justice against Lieutenant Baliaga, Colonel Delquiades Feliciano, Colonel Eduardo Ano, and other members of the 56th Infantry Battalion. At year's end these charges were under preliminary investigation.

On December 16 the Department of Justice recommended the indictment of two Army retirees (major general Jovito Palparan, Jr., former commander of the Seventh Infantry Division, and master sergeant Rizal Hilario) and two active-duty military personnel (Lieutenant Colonel Felipe Anotado, Jr., and Staff Sergeant Edgardo Osorio) for the kidnapping and illegal detention of University of the Philippines student activists Sherlyn Cadapan and Karen Empeno, who disappeared in Bulacan Province in 2006. On December 19, Angeles City airport authorities stopped Palparan, the highest-ranking military officer to be indicted on such a charge in the last 25 years, from departing abroad but did not detain him in the absence of a current court order. On December 21, a court issued a hold-departure order for Palparan, and the AFP handed over the two active-duty personnel to the PNP. At year's end the two retirees remained at large, and the PNP, National Bureau of Investigation, and government departments were coordinating efforts to apprehend them.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits torture, and evidence obtained through its use is inadmissible in court. However, members of the security forces and police were alleged to have routinely abused and sometimes tortured suspects and detainees. According to the CHR and reliable human rights groups, the use of excessive force and torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, and suffocation.

During the year the CHR investigated 47 cases of alleged torture involving 56 victims, with police, military, and other law enforcement officers identified as suspects, compared with 46 cases involving 121 victims in 2010. During the year the TFDP documented 21 cases of torture involving 27 victims and alleged that security forces were responsible, compared with 35 cases involving 57 victims in 2010.

Reports continued that prison guards physically abused inmates. The CHR and TFDP reported that abuse by prison guards and other inmates was common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Human rights activists believed suspected ASG and NPA members in captivity were particular targets for abuse. Authorities sometimes punished police who committed assault or abuse.

On July 23, members of the army's Special Operations Task Force in Basilan Province, Mindanao, arrested 39-year-old baker Abdul Khan Ajid in Sumisip for suspected ASG membership and participation in the 2001 Lamitan siege. On July 27, Ajid's wife filed a petition for habeas corpus, and upon a judge's order, the military presented Ajid in court that same day. The judge committed Ajid to the Isabela City Provincial Jail pending a determination of the legality of his arrest. As of year's end the case was unresolved, and Ajid remained in jail. The AFP initiated three separate investigations within 24 hours of Ajid's appearance in public, as a result of the assignment of human rights officers to every unit battalion size or larger. The AFP completed its investigations on August 3, determined that Ajid had been physically tortured and suffered serious injuries and second-degree burns during three days in military custody, and accused three military personnel of torture and violating the law. Authorities dishonorably discharged two staff sergeants from active service and filed a case against Captain Guidagen with the Efficiency and Separation Board. As of year's end there were no criminal charges filed against the three.

There were allegations of rape and sexual harassment by PNP officials. During the year NGO Tanggol Bayi (Defend Women) reported that female inmates in the PNP custodial center at Camp Crame were removed from their cellblocks at night and forced to sit with jail officers during drinking sessions and that women prisoners were required to massage male guards and wash their clothes.

Prison and Detention Center Conditions

Prison conditions were rudimentary and sometimes harsh. Jails and prisons were often overcrowded, lacked basic infrastructure, and provided prisoners with inadequate nutrition and medical attention. Lack of potable water, poor sanitation, and poor ventilation continued to cause health problems. During the year the Bureau of Corrections (BuCor) and the Bureau of Jail Management and Penology (BJMP) reported 732 deaths in prison due to various illnesses, including cardiopulmonary arrest and pulmonary tuberculosis. Some prisoners, including women and children, were abused by

other prisoners and prison personnel. The slow judicial process exacerbated overcrowding.

The BuCor, under the Department of Justice, administered seven prisons and penal farms for prisoners sentenced to terms exceeding three years. During the year BuCor facilities held 36,295 prisoners, including 2,165 women. The official capacity was 17,719, resulting in facility operation at 105 percent above capacity.

The BJMP, under the Department of Interior and Local Government (DILG), and the PNP controlled approximately 990 city, district, and municipal jails that held pretrial detainees, persons awaiting final judgment, and convicts serving sentences of three years or less. The DILG reported that BJMP jails operated at an average of 351 percent more than designated capacity, and Manila City Jail, built to hold 1,000 inmates, held 5,300 at the start of the year.

BJMP regulations, which require male and female inmates to be held in separate facilities and, in national prisons, overseen by guards of the same sex, were not uniformly enforced. All BJMP- and PNP-staffed jails had separate cells for women and minors, but in provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children or place them in youth detention centers, in some instances children were not fully segregated from adult inmates. Girls were sometimes held in the same cells as women. Lack of adequate food for minors in jails and prisons was a concern (see section 6, Children).

From January to November, BJMP and PNP jails held 66,825 prisoners, 95 percent of whom were pretrial detainees. The remainder had been convicted of various crimes. Of the total number of prisoners and detainees, 6,107 were adult women and 501 were minors. During the same period the BJMP released 104 minor inmates, usually in response to a court order following a petition by the Public Attorney's Office (PAO) or the inmate's private lawyer or through NGO-led appeals.

Prisoners and detainees generally had access to visitors, but local NGOs reported that authorities restricted family visitation at times for some political detainees. Prison officials noted that security concerns and space limitations at times restricted prisoner access to visitors. Muslim officials reported that while Muslim detainees were allowed to observe their religion, Roman Catholic masses were often broadcast by loudspeaker to prison populations made up of both Catholic and non-Catholic prisoners and detainees. There were no reports that authorities censored or blocked prisoner or detainee complaints or requests for investigation of inhumane conditions. International

monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

BuCor continued to automate inmate records in order to fast track the release of qualified inmates. The PAO worked with BuCor and the BJMP to address the status and circumstances of confinement of juvenile offenders and improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. Improvement of BuCor's prison record facility and installation of additional equipment for updating inmates' records continued during the year. Additional dormitories were under construction at the New Bilibid Prison in Muntinlupa City. Classification of inmates qualified for colony assignment continued during the year, with a total of 1,335 inmates transferred to less congested BuCor facilities.

BJMP paralegal officers continued to monitor and help expedite court cases and secure needed documents from the courts for speedy disposition of inmates' cases. Through this program, authorities released 14,163 inmates from BJMP jails from January to November. Since its implementation in 2008, the Supreme Court's enhanced mobile courts program, "Justice on Wheels," facilitated the release of 6,470 inmates, provided medical and dental assistance to 13,385 inmates, and successfully mediated 6,970 cases. During the year the program facilitated the release of 1,200 inmates and successfully mediated 140 cases in more than 20 provinces. The DILG launched its e-Dalaw (e-Visit) system – which allows inmates to connect with their families, locally or abroad, through supervised Internet video calls – at the Quezon City Jail in October and the Manila City Jail on December 1. The BuCor continued to partner with the Department of Health, international organizations, and others to implement a tuberculosis control and prevention program in National Capital Region jails and prisons.

d. Arbitrary Arrest or Detention

The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police and the AFP arrested and detained citizens arbitrarily. During the year the TFDP documented 71 cases of illegal arrest and detention involving 97 victims. The CHR tracked 27 cases of arbitrary arrest involving 57 victims and 46 cases of illegal detention involving 72 victims.

Role of the Police and Security Apparatus

The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. In the AFP's 2010

Internal Peace and Security Plan, the government recognized that achieving lasting peace, security, and economic development requires a "whole of nation" approach, including increasingly transitioning internal security functions to the PNP. The PNP leads internal security functions in most of the country, although the AFP continues to direct security functions in regions with a high incidence of conflict, notably certain areas of Mindanao. The DILG directs the PNP, which is responsible for law enforcement and urban counterterrorism, but governors, mayors, and other local officials have considerable influence over local police units, including approval of top departmental and municipal officers and provision of resources.

The 138,825-member PNP has deep-rooted institutional deficiencies and continued to suffer from a widely held and accurate public perception that corruption remained a problem. The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, soliciting bribes, and other illegal acts. Efforts continued to reform and professionalize the institution through improved training, expanded community outreach, and pay raises implemented in June.

Civilian authorities generally maintained effective control over the PNP and AFP, although the government had insufficient mechanisms to investigate and punish abuse and corruption. From January to August, there were 238 administrative cases filed against 238 PNP members, including administrative officials and officers, for various human rights violations. Of the cases filed, 54 were resolved, and 162 were undergoing summary proceedings as of August. The PNP dismissed three individuals in connection with these cases. The AFP Human Rights Office continued to monitor and review alleged human rights abuses involving members of the military. During the year the Human Rights Office investigated 59 reported incidents of human rights violations involving 18 AFP personnel and 24 units. Of these incidents, 22 occurred during the year, including four concerning killings; five, torture/illegal detention/illegal arrest; five, harassment/threats/abuse of authority; and eight, child rights violation/occupation of schools. Investigations conducted for human rights violations committed during the year resulted in four dishonorable discharges and 10 personnel undergoing general court martial proceedings or hearings with the Efficiency and Separation Board. Authorities filed criminal charges against nine persons in connection with the February 25 killing of Elmer Estrellado (see section 1.a.). During the year the Office of the Ombudsman, an independent agency responsible for investigating and prosecuting charges of public abuse and impropriety, received 344 cases involving military and law enforcement officers allegedly committing human rights abuses; the cases included killings, injuries, arbitrary detention or unlawful arrest, and torture, and most were filed against low-ranking police and military officials. As of year's end all cases were under investigation.

The police and military routinely provided human rights training to their members, augmented by training from the CHR. In February the AFP began to overhaul the education and training of individual soldiers as directed by its 2010 plan. The AFP also continued to adhere to 2005 Presidential Memorandum Order Number 259, which states that human rights- and international humanitarian law-related subjects must be incorporated in all AFP education and training courses and undertaken by all officers and enlisted personnel. Moreover, successful completion of these training courses is required for recruitment, entry, promotion, reassignment, designation, and foreign schooling.

The PNP maintained a network of 1,744 human rights desk officers at the national, regional, provincial, and municipal levels. The CHR continued to note that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of detainee rights remained inadequate. The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies through background investigations. A promotion can be withheld indefinitely if the commission uncovers a record of abuses. Negative findings, however, do not preclude promotion, and there were no reports of promotions withheld on human rights grounds as of August.

Cooperation and coordination between police and prosecutors remained limited. Human rights groups and the CHR continued to note little progress in implementing and enforcing reforms aimed at improving the effectiveness of investigations and prosecutions of suspected human-rights violations, such as the July 2010 Justice Department Memo Circular to guide prosecutor-police cooperation in the investigation of political and media killings. Funding for the main government witness protection program managed by the Department of Justice remained inadequate, and the CHR did not receive funding for its separate witness protection program during the year. Potential witnesses were at times unable to obtain protection due to funding constraints or procedural delays.

Government-armed civilian militias supplemented the AFP and PNP; the AFP held operational control of Citizens' Armed Force Geographical Units (CAFGU), while the Civilian Volunteer Organizations (CVOs) fell under PNP command. These paramilitary units often received minimal training and were poorly monitored, tracked, and regulated. Some politicians and clan leaders, particularly in Mindanao, maintained their own private armies and at times co-opted CVO and CAFGU members into these armies. Human rights NGOs linked state-backed militias and private armies with numerous human rights abuses, including the 2009 massacre of 57 civilians in Maguindanao Province. The prosecution of that case continued to proceed slowly due to its

complexities and justice system inefficiencies (see section 1.a.). Such delays continued the perception of impunity for national, provincial, and local government actors accused of human rights abuses.

Arrest Procedures and Treatment While in Detention

Citizens are required to be apprehended with warrants issued by a duly authorized official based on sufficient evidence and brought before an independent judiciary. However, there were some reports during the year of citizens, including minor children, being picked up by security forces without warrants and detained arbitrarily. The law permits warrantless arrests and detention without charges for up to three days for allegedly committing or attempting to commit acts of terrorism, but this authority was not exercised.

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail. The law provides an accused or detained person the right to choose a lawyer and, if indigent, to have one provided by the state. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with the time to file charges increasing based on the seriousness of the crime. Lengthy pretrial detention remained a problem, due largely to the under-resourced justice system. The BJMP released 14,163 inmates from January to November as part of jail decongestion programs. Large jails employed paralegals to monitor inmates' cases, prevent detention beyond the maximum sentence, and assist decongestion efforts.

The NPA and some Islamic separatist groups were responsible for a number of arbitrary detentions, including kidnappings and hostage taking for ransom.

On February 13, in San Jorge, Samar Province, AFP members arrested Ericson Acosta, an artist, freelance journalist, and cultural worker who was writing a human rights background document when captured. He was arrested without a warrant, not informed of the reason for his arrest, and denied the right to counsel. While detained in a military camp, Acosta was allegedly subjected to prolonged interrogation and forced to admit NPA membership. After two days he was brought to a police station and charged with illegal possession of explosives (which NGOs claimed were planted). On July 12, the prosecutor denied Acosta's request that the charges be dismissed and recommended charges be filed in court. In September Acosta sought Justice Department review of the decision to proceed to trial. At year's end he remained in the Calbayog City Provincial Jail, and Justice Department review was pending.

Lengthy pretrial detention remained a problem. Trials took place in short sessions that were spread out as witnesses and court time became available, which created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,187 trial-court judgeships, 537 were vacant as of August. Courts in Mindanao and poorer provinces had higher vacancy rates than the national average. Sharia (Islamic law) court positions were particularly difficult to fill because of the requirement that applicants be members of both the Sharia Bar and the Integrated Bar. All five sharia district court judgeships and 39 percent of circuit court judgeships remained vacant. Sharia courts do not have criminal jurisdiction.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. Corruption through personal connections and sometimes bribery resulted in impunity for some wealthy or influential offenders. Overall, the judicial system continued to suffer from a lack of sufficient personnel, inefficient processes, and long delays. The *Report on Philippine Extrajudicial Killings: 2001-2010* audited pending cases and computed the average trial duration for extrajudicial and enforced disappearance cases to be longer than five years. These factors contributed to widespread skepticism that the judicial process could deliver due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. No judges were dismissed or disciplined as of August.

Trial Procedures

The law requires all persons accused of crimes to be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, present evidence in their favor, review government evidence, and appeal convictions; these legal requirements were generally implemented. The authorities respected defendants' right to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the PAO under the Department of Justice, but their workload was large and resources were scarce. The PAO provided legal representation for indigent litigants at trial; however, during arraignment, courts may appoint, at their option, any lawyer present in the courtroom to provide counsel to the accused.

The law provides that cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court, 12 months for a court of appeals, and three

months for lower courts. However, these time limits were not mandatory and were not respected in practice. In effect there were no time limits for trials. Government officials estimated that it takes an average of five to 10 years to obtain a conviction and that the national conviction rate was 20 percent. The system relied heavily on witnesses' testimony and gave relatively little weight to circumstantial and forensic evidence.

Political Prisoners and Detainees

Various human rights NGOs maintained lists of incarcerated persons they considered political prisoners. Some NGOs asserted it was frequent practice to make politically motivated arrests of persons for common crimes or on fabricated charges and to continue to detain them after their sentences expired. The TFDP tracked 316 political prisoners and detainees as of year's end, an increase from the 289 individuals recorded in 2010; the majority were pretrial detainees. The BJMP reported 149 political detainees as of year's end, a decrease from the 389 detainees tracked in 2010. The BJMP cited an increase in the number of released political detainees and the transfer of detainees to BuCor prisons as reasons for the decline in the number of political prisoners during the year.

The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs. For example, the TFDP recorded 39 political prisoners released from prisons or detention centers as of August.

The government permitted access to alleged political prisoners by international humanitarian organizations on a regular basis.

Civil Judicial Procedures and Remedies

The judiciary is independent and impartial in civil matters. Complainants have access to local trial courts to seek civil damages for, or cessation of, human rights abuses. There are administrative remedies as well as judicial remedies for civil complaints; however, cases often were dismissed.

Property Restitution

NGOs claimed the AFP sometimes appropriated civilian facilities or private property without providing compensation to residents.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

While the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges generally declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens, although leaders of communist and leftist organizations and rural-based NGOs complained of alleged patterns of surveillance and harassment.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

For decades the Philippines has contended with a communist insurgency supported by a nationwide NPA presence; armed secessionist movements in southern areas predominantly populated by persons self-identifying as Moros; and violence from smaller, transnational terrorist organizations (such as the ASG and JI) as well as from criminal syndicates. During the year government forces killed a number of civilians during clashes with these groups. Some citizen groups complained that the AFP, in confronting the ASG and NPA, illegally detained citizens, destroyed houses, and displaced residents. Clashes between the AFP and separatist MILF forces, as well as incidents of interclan vendettas leading to violence (known as rido), continued in central Mindanao and resulted in civilian deaths and the displacement of thousands.

Killings

Government forces acknowledged civilian deaths in the course of their military operations against the NPA, MILF, and other insurgent groups. During the year AFP operations killed 166 insurgents (57 suspected NPA, 54 ASG and 55 MILF members). The PNP reported killing 19 NPA insurgents in various operations from January to December.

Antigovernment groups were responsible for killing AFP soldiers, police, and civilians. Military sources reported that 113 AFP members were killed in action during encounters with rebel and terrorist groups during the year: 61 by the NPA, 32 by the MILF, and 20 by the ASG. Insurgents killed 20 PNP officers as of year's end. There were media reports that Islamic separatist groups set fire to villages.

The AFP recorded 49 bombings by insurgents that killed 12 civilians during the year. The government suspected that ASG- or JI-linked groups were responsible for bombings in Cotabato, Jolo, and Zamboanga cities that killed civilians; no group(s) claimed responsibility. The government also attributed fatal bombings in Basilan and beheadings in Sulu provinces to the ASG. On July 28, the ASG killed seven AFP marines, two of whom were beheaded, during an encounter in Jolo, Sulu.

Communist insurgents, mainly from the NPA, used roadside bombs, ambushes, and other means to kill political figures, military and police officers, and civilians – including suspected military and police informers. During the year the NPA claimed responsibility for the killings of two former rebels and a police asset in the following three separate incidents in Batangas Province: the April 16 killing of a man known as "Magno" in Balete, the April 23 killing of Dennis Ramos in Calatagan, and the April 28 killing of police asset Richard Villarin in Balayan. The NPA and other criminal extortion groups also harassed government offices or burned businesses, farms, and private communication facilities to enforce the collection of "revolutionary taxes."

Abductions

Various armed criminal and terrorist groups, including the ASG, in Mindanao and the Sulu Archipelago kidnapped numerous civilians. Victims often were ransomed or rescued by authorities.

During the year the ASG, NPA, and other kidnap-for-ransom groups abducted at least 40 individuals (12 government workers and security personnel, 10 businessmen, eight foreign citizens, three fishermen, and seven local residents) in several areas of Mindanao (Lanao del Norte, Basilan, Cotabato City, Sulu, and the Zamboanga Peninsula). As of December, 32 were either rescued or released and eight remained missing or captive. During the year the NPA accorded "prisoner of war" status to four jail guards abducted on July 21 and put Mayor Henry Dano of Lingig, Surigao del Sur Province, on trial before a "people's court." On October 8 and 9, the four jail guards and Mayor Dano, respectively, were released.

Physical Abuse, Punishment, and Torture

Leftist and human-rights activists reported harassment by local security forces, including rape and abuse of detainees by police and prison officials.

Child Soldiers

The UN monitored incidents of the recruitment and use of children in armed conflicts and worked to verify these incidents during the year. In an October 11 report, the NGO Human Rights Watch criticized both the use of child soldiers by antigovernment insurgent groups and the alleged AFP practice of detaining children and fabricating stories of their child soldiering. Government reporting mechanisms for children in armed conflict were inconsistent between agencies and regions, especially in conflict-affected areas due to security concerns, making it difficult to evaluate the scope of this problem in the country. See also the Department of State's [2011 Trafficking in Persons Report](#).

In a May 2010 report, the UN identified the ASG, NPA, and MILF as among the world's "persistent violators of prohibitions on the use of children in armed conflicts." According to the report, these groups have recruited or used child soldiers at least since 2005. It noted the progress made with the MILF when its representatives signed the 2009 action plan to prevent the recruitment and use of child soldiers and to release children from all MILF units. During the April visit of the special representative of the UN secretary general for children in armed conflict (SRSG-CAC), MILF leadership agreed that the process of registration of children associated with the armed group would be completed in nine months, after which a period of reintegration and rehabilitation of the children would begin. The government continued its support of the UN-MILF action plan on the issue of the recruitment and use of children in the armed conflict in Mindanao, but extension of the plan remained pending at year's end.

In April during the visit of the SRSG-CAC, the National Democratic Front, the political arm of the country's Communist Party, agreed to develop a similar action plan with the UN.

During the year the NPA reportedly targeted children for recruitment as combatants and noncombatants. The NPA claimed it assigned persons 15 to 18 years of age to self-defense and noncombatant duties, but there were reports that the NPA continued to use minors in combat. AFP records showed 14 child soldiers, allegedly recruited by the NPA, who voluntarily surrendered to authorities during the year.

The ASG continued to recruit teenagers to fight and participate in its activities.

The May 2010 UN report also noted isolated cases of minors, ages 15-17, who were voluntarily recruited into the paramilitary CAFGU entities that fall under AFP operational control. The AFP Human Rights Office reported an incident in January of a minor inadvertently accepted for training preparatory to appointment in a CAFGU. Upon discovery of his real age, the minor's appointment was canceled, and he was immediately reintegrated with his family.

Other Conflict-related Abuses

Clashes between the MILF and AFP continued and caused the number of IDPs to fluctuate. Most IDPs were in the central Mindanao provinces of Lanao del Norte, Cotabato, and Maguindanao (see section 2.d.). The AFP sometimes used civilian facilities, such as schools, to quarter soldiers during military operations in remote areas, which interfered with their normal activities.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people" and executed some of the "defendants." The MILF also maintained its own "people's courts."

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press: The independent media were active and expressed a wide variety of views without restriction, including criticizing the government. Most media outlets were criticized for lacking rigorous journalistic standards and reflecting the particular political or economic orientations of owners, publishers, or patrons – some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Violence and Harassment: Journalists continued to face harassment and threats of violence from individuals critical of their reporting. Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists continued to accuse police and local elected officials of subjecting journalists to harassment and surveillance as well as failing to investigate killings of journalists.

The NGO Center for Media Freedom and Responsibility reported eight journalists killed and contended that five of them were killed while carrying out journalistic tasks. The TFU, which also tracks killings of media practitioners, classified two of these cases as work-related killings, part of its recorded 41 media practitioners slain in work-related killings since 2001; this total does not include the 31 media members killed in the Maguindanao massacre, which was monitored by a special task force established solely to investigate the case (see section 1.a.).

In an April 17 open letter to the president, members of the press, together with journalism professors from the University of the Philippines and student journalists with the College Editors Guild of the Philippines, warned that "... failure to prosecute the killers of journalists as well as those of political activists ... is sending the dangerous

signal that ... killings can continue during your watch without the perpetrators being punished."

On September 7, the secretary of justice replaced the original panel of prosecutors and ordered a reinvestigation of the case of the January 24 shooting and killing of Radio Mindanao Network commentator and antimining advocate Gerardo Ortega in Puerto Princesa City, Palawan Province. Authorities had filed murder charges at the prosecutor's office against 10 individuals, including well-known government officials, but on June 8, the Justice Department dismissed the cases against six individuals, including the officials, and found probable cause to proceed only against the other four. Ortega's case was pending reinvestigation at year's end.

Authorities used criminal defamation prosecutions, with the possibility of imprisonment and fines, to harass and intimidate journalists. For example, an Iligan City councilor's defamation complaint (he had been accused of lying on air about the city budget) resulted in the April 18 arrest of Radio DxRJ journalist Alberto Loyola; he was released on bail pending trial.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events, although student groups at some universities accused security forces of harassing student political groups. The Cultural Center of the Philippines closed an exhibit in August after Roman Catholic and lay groups filed charges against the center director, the board, and an artist for displaying a piece of art it considered indecent.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's [2010 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel: The government limited foreign travel in several respects, such as when a citizen had a pending court case, and discouraged travel by vulnerable workers to areas in which they faced personal security risks, including the risk of being exploited or trafficked. The government retained its formal ban on travel to Iraq for the purposes of employment, but the Department of Foreign Affairs estimated that 6,000 Filipinos worked there. The travel ban also included Afghanistan, Nigeria, Somalia, Jordan, Syria, and Lebanon. The Philippine Overseas Employment Administration sought to regulate and control departures for work abroad and required citizens to register with government agencies and receive predeparture screening, training, and certification before traveling for employment overseas to ensure workers were not being exploited or trafficked.

Internally Displaced Persons (IDPs)

The four-decade-long conflict between the government and Moro armed groups, sporadic interclan fighting, and severe flooding in Mindanao generated significant internal displacement in 2011. There were continuing counterinsurgency campaigns against the ASG, primarily in Sulu and Basilan provinces, plus clashes with the NPA in most provinces – but mainly in remote areas of Negros Oriental, Surigao del Sur, Davao del Norte, and Compostella provinces – that caused sporadic and small-scale displacement.

The UN Office for the Coordination of Humanitarian Affairs estimated the number of IDPs at more than 46,000 as of October, including approximately 10,000 resulting from 50 interclan incidents between January and October. In addition, Tropical Storm Washi in mid-December killed more than 1,000 persons and affected approximately 722,000 across 13 provinces, according to the government's National Risk Reduction and Management Council. As of year's end more than 73,000 storm-related IDPs remained in 55 evacuation centers.

Two years after hostilities ended between the AFP and MILF, the Office of the Presidential Adviser on the Peace Process (OPAPP) reported in July that 4,538 displaced families – a substantial reduction from previous years – were living in camps and relocation sites in southern Mindanao, with a majority in Maguindanao Province. The NGO Internal Displacement Monitoring Center (IDMC) reported a February figure of approximately 15,000 IDPs remaining in camps. Other IDPs were living in informal settlements or with host communities in both rural and urban areas, but they were not included in official government data, and although estimated by the IDMC to number several thousand in February, their precise number remained unknown.

In August the government launched the PAMANA (Peaceful and Resilient Communities) program, a peace and development effort to respond to the needs of communities countrywide that were affected by armed conflict. PAMANA adopts a "whole of nation" strategy in which all government agencies as well as civil society organizations and donor groups pool efforts and resources to help empower families in conflict areas. During the year the government launched the IDP Shelter Assistance Project with a 195-million-peso (approximately \$4.5-million) fund to build 2,815 shelters for displaced families in the provinces of Maguindanao and North Cotabato.

Government agencies, often with support from UN agencies and other international donors, provided food assistance and other goods (although NGOs noted that food aid was sometimes delayed); constructed shelters and public infrastructure; repaired schools; built sanitation facilities; offered immunization, health, and social services; and provided cash assistance and skills training. The government permitted humanitarian organizations access to IDP sites. Security forces did not target IDPs, but military operations were sometimes carried out near IDP sites, which risked casualties and damage and restricted freedom of movement. At times the government encouraged IDPs to return home, but they often were reluctant due to insecurity and food scarcity. The IDMC speculated that some also remained because they had better access to basic facilities and livelihood opportunities than in their home areas.

Protection of Refugees

Access to Asylum: No comprehensive legislation provides for granting refugee status or asylum. The Justice Department refugee unit determines which asylum seekers qualify as refugees. During the year the department received 21 asylum applications; at year's end it had granted one, denied seven, and continued 13 under review.

Safe Country of Origin/Transit: The government cooperated with the UNHCR and other humanitarian organizations in assisting refugee transit through the country. As of October the Justice Department reported 97 transiting refugees in country, not including

emergency transit. A 2009 Department of Foreign Affairs-UNHCR memorandum of agreement permits the emergency transit of refugees through the Philippines for onward resettlement in another country, and the UNHCR recorded the transit of 243 such refugees during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In May 2010 the country conducted nationwide elections for president, both houses of congress, provincial governors, and local government officials. It was the country's first automated election, and procedural problems caused extensive polling delays. International and national observers viewed the election as generally free and fair, but there were numerous incidents of violence and allegations of fraud in some areas. The PNP recorded 180 election-related violent incidents that resulted in the deaths of 55 individuals between January and June 2010. The Commission on Elections (COMELEC) recorded 96 election-protest cases filed due to allegations of vote buying, anomalies, and irregularities. As of year's end 16 were resolved, and the remaining cases were pending investigation or a motion for reconsideration.

On November 18, authorities arrested Congresswoman and former president Gloria Macapagal-Arroyo in Manila on charges of electoral fraud and tampering with 2007 senatorial elections, following action by COMELEC. At year's end she was under hospital arrest at the Veterans Memorial Medical Center in Quezon City.

Some 300,000 poll-station workers, mostly teachers, were denied the right to vote when COMELEC failed to create procedures allowing them to vote at their assigned polls, which generally were outside their designated precinct.

Participation of Women and Minorities: There were no restrictions in law or practice on participation by women and minorities in politics. There were three women in the 24-seat Senate and 64 women in the 285-seat House of Representatives. There were six women in the 32-member cabinet, two female associate justices on the 15-member Supreme Court, 16 women among the 80 governors, and 298 women among the 1,621 mayors.

There were no Muslim or indigenous senators and no Muslim or indigenous cabinet members. There were 11 Muslim members in the House of Representatives, mostly elected from Muslim-majority provinces, and one member of indigenous descent. Muslims, indigenous groups, and other citizens argued that electing senators from a nationwide list favored established political figures from the Manila area and preferred therefore the election of senators by region, which would require a constitutional amendment.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, but corruption remained a very serious problem, and in spite of government efforts to file charges and obtain convictions in a number of cases, officials engaged in corrupt practices with relative impunity. To combat this problem, the constitution established the independent Office of the Ombudsman and the Sandiganbayan (an anticorruption court). Public officials were subject to financial disclosure laws.

On December 28, the Office of the Ombudsman filed graft and corruption charges at the Sandiganbayan against former president Gloria Macapagal-Arroyo in connection with the cancelled \$329 million National Broadband Network project agreement with China's ZTE Corporation. Also charged with graft were former first gentleman Jose Miguel Arroyo, former transportation and communication secretary Leandro Mendoza, and former COMELEC chairman Benjamin Abalos. During the year the government obtained convictions against 52 officials in 171 corruption cases, including those on June 22 of a mayor of the municipality of Leyte and a former mayor in Nueva Ecija Province.

There were reports of widespread corruption among prison guards and some prison officials, complaints of judicial workers accepting bribes or being threatened to delay or derail cases, and accusations that PNP members solicited bribes and conducted illegal acts.

The law provides for the right to information on matters of public concern, but there is no legislation that defines procedures for such access or penalties for officials who fail to disclose lawfully available data. Denial of such information has occurred, especially when related to an irregularity in government transactions. Several government departments posted contracts and bid documents online for public viewing, but overall, little government information was available during the year.

On July 26, the Supreme Court denied an appeal seeking reversal of the court's decision declaring unconstitutional the creation of the Philippine Truth Commission that had been established in 2010 to investigate presidential corruption.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

UN and Other International Bodies: A number of international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. According to the government, 14 UN special rapporteurs submitted visit requests, and four visits were scheduled for 2012.

Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from areas in which incidents under investigation took place. On December 21, the UN special rapporteur on the situation of human rights defenders noted that defenders in the Philippines faced a high risk of harm when working on problems connected with land and the environment, including killings, assaults, ill treatment, and threats.

Government Human Rights Bodies: The CHR continued to fulfill its mandate to protect and promote human rights; investigate all human rights violations, including those requested by NGOs; and monitor government compliance with international human rights treaty obligations. Nonetheless, according to the CHR, its monitoring and investigation of alleged violations continued to face difficulties due to insufficient resources: Its nationwide 2011 budget of approximately 267 million pesos (\$6.2 million) was 6 percent less than in 2010.

Approximately three-quarters of the country's 42,000 villages have human rights action centers, which coordinated with CHR regional offices. Nevertheless, the CHR believed that it lacked sufficient funding and staff to investigate and follow up all cases presented to its regional and subregional offices.

The Office of the Ombudsman is an independent agency with jurisdiction to handle complaints regarding all public officials and employees. In March the House of Representatives impeached the ombudsman, Merceditas Gutierrez, and on May 6, three days before a Senate trial, she resigned. Gutierrez had been criticized for inefficiency and inability to prosecute high-profile cases, and she also suffered from low public confidence due to her perceived close ties to the family of former president Gloria Macapagal-Arroyo. Retired Supreme Court associate justice Conchita Carpio-Morales became ombudsman in July. Although many human rights NGOs perceived the appointment of the new ombudsman as a welcome development, concerns remained regarding the office's administrative and institutional weaknesses.

The House of Representatives and the Senate have committees on human rights and justice. Credible NGOs reported that both lacked effectiveness and were unable to attain final passage of laws aimed at minimizing domestic human rights abuses. Many human rights bills passed by the two committees remained stagnant in the Senate and House during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination against women, children, persons with disabilities, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal, with penalties ranging from 12 years' imprisonment to a 40-year sentence with no option for pardon or parole until 30 years have been served (reclusion perpetua) plus a lifetime bar from political office. Penalties for forcible sexual assault range from six to 12 years' imprisonment. The NGO Tanggol Bayi (Defend Women) criticized the government for failing to protect rape victims adequately and provide a safe environment for cases to be filed. During the year the PNP received 1,059 rape cases: 1,038 were filed in court, four were under investigation, and 17 were referred to other agencies for further investigation. Statistics were not available on prosecutions, convictions, and punishments during the year for cases filed by the PNP, although the BuCor reported that its prisons and penal farms held 6,967 prisoners convicted of rape, 5,381 of whom were serving 40-year sentences, while another 30 were serving life sentences. There continued to be reports of rape and sexual abuse of women in police or protective custody – often women from marginalized groups, such as suspected prostitutes, drug users, and lower-income individuals arrested for minor crimes – including allegations of rape perpetrated by PNP officials.

Domestic violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. During the year the PNP reported 8,332 cases of domestic violence against women and children: 7,997 were filed in court, 54 were under investigation, 159 were settled, and 122 were referred to other agencies for further investigation. Statistics were not available on prosecutions, convictions, and punishments during the year for cases filed by the PNP. The Department of Social Welfare and Development (DSWD) extended assistance to 760 victims of wife beating from January to September – statistics that likely significantly underreported the level of violence against women and children. A local women's support group noted that, in

smaller localities, perpetrators of abuse sometimes used personal relationships with local authorities to avoid prosecution. On other occasions women who sought to file complaints through the police were told to pay special fees before their complaints could be registered.

The PNP and DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, the CHR, and the Philippine Commission on Women (PCW) – a government agency – officers received gender-sensitivity training to deal with victims of sexual crimes and domestic violence. The PNP maintained a central women and children's unit and 1,823 women and children's desks throughout the country to deal with these matters.

Sexual Harassment: The law prohibits sexual harassment, but it remained widespread and underreported in the workplace due to victims' fear of losing their jobs. Women in the retail industry worked on three- to six-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed.

Sex Tourism: Although prostitution was illegal, sex tourism – with clients from domestic sources, the United States, Europe, Australia, the Middle East, and other East Asian countries – continued during the year.

Reproductive Rights: The constitution upholds the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, the provision of health care services is the responsibility of local governments, and although men and women generally were treated equally, restrictions on the provision of birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. During the year several village authorities proposed or issued ordinances limiting the use of contraceptives. For instance, in January Ayala Alabang Village, an exurb of Metro Manila, and in March seven villages in Bataan Province issued ordinances banning condoms and other forms of modern contraceptives without a medical prescription. While artificial contraception could be purchased on the open market in most areas, it remained unaffordable for many of Manila's poorest residents.

Social hygiene clinics in urban areas served everyone who sought consultation and treatment. Women and men were equally diagnosed and treated for sexually transmitted infections. The Department of Health trained rural health physicians in diagnosis and treatment, but local health offices faced resource constraints. According to the 2008 National Demographic Health Survey, 91 percent of pregnant women had at

least four prenatal care visits, 44 percent of births were facility based, and 62 percent of births were attended by skilled birth attendants.

Discrimination: By law but not always in practice, women have most of the rights and protections accorded to men. Women are accorded the same rights as men regarding the ownership, acquisition, management, administration, enjoyment, and disposition of property and assets. Married women generally have property ownership rights equal to married men. However, in Muslim and indigenous communities, property ownership law or tradition grants married males more property ownership rights than married females.

No law mandates nondiscrimination based on gender in hiring practices, and women in the labor force reportedly earned 37-47 percent less than men. Some labor unions claimed female employees suffered age discrimination and punitive action when they became pregnant. Although women faced workplace discrimination, they continued to occupy positions at all levels of the workforce. In a July labor-force survey, 58 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that of the 2.8 million unemployed persons, 37.4 percent were women.

The law does not provide for divorce, although courts generally recognized the legality of divorces obtained in other countries if one of the parties was a foreign national. Marriage may be terminated through a legal annulment, but the cost precludes annulment as an option for many families. Many lower-income couples simply separated informally without severing their marital ties. The law provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under age seven are placed in the care of the mother unless there is a court order to the contrary. Children age seven and older normally also remain with the mother, although the father may dispute custody through the courts.

The PCW, composed of 10 government officials and 11 NGO leaders appointed by the president, is the primary policy-making and coordinating body on matters of women and gender equity. During the year the PCW continued to advocate for passage of the reproductive health and domestic helper's bills, both of which were pending in Congress, and stepped up its campaign against violence against women.

Children

Birth Registration: Citizenship is derived by birth within the country's territory or from one's parents. The government continued to promote birth registration; health facility-based births were immediately registered, while those occurring outside facilities were less likely to be registered immediately, if at all. Credible NGOs confirmed their

previous estimates that there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups. Children could be deprived of education if they lacked required documents, such as birth certificates. The DSWD continued working closely with local governments to address this deficiency.

Education: Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor, and access was not universal. The Department of Education's 2011 education sector assessment showed approximately six million out-of-school youth. According to the 2008/2009 Philippines Human Development Report, the Autonomous Region in Muslim Mindanao had the highest percentage of illiterate and out-of-school youths in the country (17 percent, compared with 6 percent nationally), mainly due to poverty; insufficient access to information and opportunity; and a lack of peace, order, and security.

Child Abuse: Child abuse remained a problem. From January to September, DSWD offices served 5,095 victims of child abuse, 64 percent of whom were girls. Approximately 38 percent of the girls were victims of sexual abuse. UNICEF praised the country's laws protecting children in its *Annual Country Report 2010* but noted that enforcement "remain[ed] a challenge." Several cities ran crisis centers for abused women and children. Foreign and domestic pedophiles abused and exploited children, and the government continued its efforts to prosecute accused pedophiles and deport foreign ones.

Sexual Exploitation of Children: The minimum age for consensual sex is 12 years. The statutory rape law criminalizes sex with minors under the age of 12 and sex with a child under age 18 involving force, threat, or intimidation. The maximum penalty for child rape is reclusion perpetua plus a lifetime bar from political office. Child pornography is illegal, and penalties range from one month to life in prison plus fines from 50,000 to five million pesos (approximately \$1,150 to \$115,000), depending on the gravity of the offense. Despite these penalties, law enforcement agencies and NGOs reported that minors continued to be used unlawfully in the production of pornography and in cybersex activities.

Child prostitution continued to be a serious problem, and the country remained a destination for child sex tourism. Of the 5,095 victims of child abuse whom DSWD offices served from January to September, approximately 3 percent were victims of sexual exploitation. The National Bureau of Investigation and the PNP worked closely with the Department of Labor and Employment (DOLE) to target and close facilities suspected of prostituting minors. During the year DOLE closed six establishments that had recruited 31 minors; trials continued at year's end.

Displaced Children: UNICEF estimated in 2009 that there were 250,000 street children, many of whom appeared abandoned and engaged in scavenging or begging. During the year the DSWD provided services to 617 street children nationwide. NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children engaged in petty crime in Davao and other major cities (see section 6, Other Societal Violence). Displacement affected children in central Mindanao, but generally they had access to government services (see section 2.d.).

Institutionalized Children: The law and executive orders provide for the welfare and protection of institutionalized children. Police stations have child- and youth-relations officers to ensure that child suspects are treated appropriately, but procedural safeguards often were ignored in practice. According to the BJMP, as of November 501 minors were held in "preventive detention" while their trials were underway. Many child suspects were detained for extended periods without access to social workers and lawyers and were not segregated from adult criminals, although there were three DSWD detention centers for children in Manila. During the year government agencies and NGOs transferred 446 minor prisoners to DSWD rehabilitation centers, of which there were 11, and continued to work to secure the release of minors wrongfully imprisoned or younger than age 15. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other mistreatment.

International Child Abductions: The Philippines is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

An estimated 400 to 1,000 mostly foreign nationals of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *2011 Trafficking in Persons Report*.

Persons with Disabilities

The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments, but in practice many barriers remained.

The National Council for the Welfare of Disabled Persons formulated policies and coordinated the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. DOLE's Bureau of Local Employment maintained registers of persons with disabilities that indicate their skills and abilities, monitored private and public places of employment for violations of labor standards regarding persons with disabilities, and promoted the establishment of cooperatives and self-employment projects for persons with disabilities. One reliable NGO reported that the government continued to have limited means to assist persons with disabilities in finding employment, and such persons had limited recourse when their rights were violated because of the financial barriers to filing a lawsuit.

The DSWD operated two assisted-living centers in Metro Manila and five community-based vocational centers for persons with disabilities nationwide. From January to September, the DSWD provided services to 2,684 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective due to weak implementing regulations, insufficient funding, and government programs that were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities were limited. Two of Manila's three light-rail lines were wheelchair accessible, but many stops continued to have unrepaired, out-of-service elevators. Buses lacked wheelchair lifts, and one NGO claimed that private transportation providers, such as taxis, often overcharged persons with disabilities or refused them service. A small number of sidewalks had wheelchair ramps, which were often blocked, crumbling, or too steep; the situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote, although persons with mental disabilities are disqualified from voting. Persons with physical disabilities may have the assistance of a person of their choice in order to vote. In practice many persons with disabilities did not vote because of the physical barriers described above.

Indigenous People

Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children often suffered from lack of health, education, and other basic

services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of discrimination they experienced. According to the NGO Alliance of Indigenous Peoples' Organizations in the Philippines (KAMP), only a few government units in the country complied with the longstanding legal requirement for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting actively recruited them. The Task Force for Indigenous Peoples' Rights (TFIP) continued to lobby for an appropriate mechanism through which indigenous people could be recognized as an official party and represented in peace talks between the government and MILF. The TFIP and KAMP reported a number of killings of indigenous persons opposed to mining interests and lobbied against encroachment by mining companies on indigenous land.

From January to August, the National Commission on Indigenous People (NCIP) reported five cases of human rights violations due to land conflict, including the May 17 killing of Agta tribal leader Armando Maximino in Casiguran, Aurora Province. The violations included harassment, intimidation, and displacement of indigenous people by government security forces in Tanay, Rizal Province; Iriga City; and Bayog, Zamboanga del Sur Province. The NCIP referred these cases to the CHR, PNP, and OPAPP; all were under investigation at year's end. Other NGOs reported the use of security forces to protect mining and other private interests in indigenous areas.

The NCIP, staffed by tribal members, implemented constitutional provisions to protect indigenous people, including the awarding of Certificates of Ancestral Land and Ancestral Domain Titles covering more than 458,000 acres of land claimed by indigenous people from January to August. It awarded such "ancestral domain lands" based on communal ownership, stopping sales of the lands by tribal leaders. In addition, the NCIP considers "ancestral sea" claims, since some indigenous groups – such as the Sama-Bajau, which customarily resided in fishing areas of western Mindanao, Malaysia, and Indonesia – traditionally practiced migratory fishing. Approvals have been limited, and a large number of the Sama-Bajau have been displaced from western Mindanao by continuing conflict, poverty, and lack of access to ancestral seas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

A coalition of lesbian, gay, bisexual, and transgender (LGBT) NGOs submitted a midyear report to the UN Universal Periodic Review that criticized the government for the absence of law and policy to protect persons from discrimination based on sexual orientation and gender identity. From January to August, the NGO Philippine LGBT Hate Crime Watch recorded 29 killings of LGBT individuals, linked the killings to prejudice or hate crimes, and referred them to the CHR and PNP for investigations, which were pending at year's end. LGBT NGOs reported societal discrimination based on sexual orientation and gender identity, including in employment and education.

Other Societal Violence or Discrimination

Vigilante groups, including some with suspected ties to state actors, were suspected of summary killings of alleged adult criminals and minors involved in petty crime in the six major cities of Metro Manila, Cebu, Cagayan de Oro, Tagum, Davao, and General Santos. For example, the NGO Coalition Against Summary Execution recorded 71 cases of suspected vigilante killings in Davao City from January through September.

The law prohibits discrimination against persons with HIV/AIDS and provides for basic health and social services for them. However, there was some evidence of discrimination against HIV/AIDS patients in the government's provision of health care, housing, and insurance services.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of most Filipino workers, with the exception of the military and police, to form and join trade unions. Laws also prohibit organizing by short-term contract and foreign-national workers, unless a reciprocity agreement exists between the countries. Labor laws apply uniformly throughout the country, including in the Special Economic Zones (SEZs).

Strikes in the private sector are legal, although unions are procedurally required to provide strike notice, respect mandatory cooling-off periods, and obtain majority-member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The law provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, although there has never been such a conviction.

Government workers are prohibited from joining strikes under threat of automatic dismissal. Instead, government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers.

Law and regulations provide for the right to organize and bargain collectively in both the private sector and in corporations owned or controlled by the government. Similar rights are afforded to most government workers. Use of short-term contractual labor, particularly by large employers, continued to be prevalent. Some employers choose to employ such workers, who are not permitted to organize with long-term, "regular" workers, as a means of minimizing unionization.

By law antiunion discrimination, especially in hiring, constitutes an unfair labor practice and can carry criminal or civil penalties. There is no explicit provision to provide for reinstatement.

DOLE has general authority to enforce laws on freedom of association and collective bargaining. Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. Before disputes reached the NLRC, DOLE provided mediation services through a board, which settled most of the unfair labor practice disputes. Through the mediation board, DOLE also worked to improve the functioning of labor-management councils in companies that already had unions.

The DOLE secretary – and in some special cases, the president – may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if either official determines that the strike-affected company is vital to the national interest. Labor rights advocates criticized the government for intervening in labor disputes in sectors that they contended were not vital to the national economy. During the year DOLE reported two strikes involving 3,828 workers in the industry and services sector.

Collective bargaining was practiced, but it was subject to hindrance by employers, and union leaders were subject to reprisal. In the public sector, collective bargaining was limited to a list of terms and conditions of employment that could be negotiated between management and public employees. Nonnegotiable items were those that required appropriation of funds, including healthcare and retirement benefits, and those that involved the exercise of management prerogatives, including appointment, promotion, compensation, and disciplinary action.

Created in 2010, the National Tripartite Industrial Peace Council (NTIPC) serves as the main consultative and advisory mechanism concerning labor and employment. It

functions primarily as a forum for tripartite advice and consultation among organized labor, employers, and government in the formulation and implementation of labor and employment policies. It also serves as the central entity to monitor recommendations and ratifications of International Labor Organization (ILO) conventions. DOLE, through the NTIPC, is charged with coordinating the investigation, prosecution, and resolution of cases pending before the ILO concerning allegations of violence and harassment directed at labor leaders and trade union activists. During the year DOLE assumed jurisdiction in five labor dispute cases.

In practice trade unions were independent of the government. Unions have the right to form or join federations or other labor groups, and many join national and international confederations. According to union leaders, however, management frequently threatened union members with dismissal and sometimes illegally dismissed union organizers during the year. Additionally, the military maintained a presence in some workplaces and interfered in labor disputes.

Killings and harassment of labor leaders and advocates continued to be a problem, although to a lesser extent than in the mid-2000s. During the year the Center for Trade Union and Human Rights (CTUHR) documented four cases involving killings of five labor leaders, compared with five killings in 2010. For example, on March 8, unknown assailants killed Cielito Baccay, a union officer and founder of the Maeno-Giken Workers Organization (MAGIKWO) in Dasmarinas, Cavite Province. Some labor groups linked this killing to the continuing dispute between MAGIKWO and the management of Maeno-Giken, Inc. and suspected that the incident was a form of harassment and union busting. Management denied any connection to the killing, and the case remained under investigation as of year's end.

In addition, during the year the CTUHR documented 11 cases of threats, harassment, and intimidation affecting 73 workers and labor advocates, 11 cases of physical assault, and three cases of protests violently dispersed.

On April 1, DOLE reaffirmed its December 2010 ruling in favor of the association representing flight attendants and stewards of Philippine Airlines (PAL), which granted back-salary increases, a compulsory retirement age of 60 years, and other benefits. DOLE has also brokered talks between members of the Philippine Airlines Employees Association (PALEA) and management since December 2010 regarding plans to outsource a number of "non-core" positions, which would reduce the workforce by 2,600. On September 27, four days before the changes became effective, PALEA members walked off the job in protest, effectively shutting down the airline. On November 9, the airline's management filed criminal complaints against 41 former employees who allegedly

harassed airline staff and blocked PAL's catering services on October 29. By year's end the criminal cases against the former employees were pending in court, and the majority of the 2,600 non-core positions had been outsourced.

In practice local SEZ directors claimed authority to conduct their own inspections as part of the zones' privileges intended by the legislature. Hiring often was controlled tightly through SEZ labor centers. For these reasons, and in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts, unions had little success organizing in the SEZs.

Unions continued to claim that local political leaders and officials who governed the SEZs explicitly attempted to frustrate union organizing efforts further by maintaining union-free or strike-free policies. Unions also claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize and alleged that companies in SEZs used frivolous lawsuits as a means of harassing union leaders. Finally, labor rights groups reported that some firms used bankruptcy as a reason for closing and dismissing workers attempting to organize. By law bankruptcy is an acceptable reason for closing a firm, unless there is a pattern in which it was falsified and used to deny worker rights. The Philippines Export Zone Authority engaged the NGO Verite on this problem with no marked progress by year's end.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, but there were reports that forced labor of adults and children (see section 7.c.) continued to occur, mainly in fishing, maritime industries, small-scale factories, domestic service, agriculture, and other areas of the informal sector.

Trade unions reported poor compliance with the law, due in part to the prevalence of forced labor in the informal sector and the inability of the government to inspect labor practices in that sector.

The government did not provide data on the number of victims removed from forced labor during the year but noted that in August it assisted 38 fishermen in filing six cases of qualified trafficking for forced labor and one case of violating the antichild-abuse law involving a recruiter for a fishing company from Negros Oriental Province. At year's end all cases continued.

During the year credible NGOs also reported incidents of forced labor in domestic service in the country, although most cases focused on Filipino workers abroad.

Also see the Department of State's *2011 Trafficking in Persons Report*.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, and sets the maximum number of working hours for them at four hours per day and no more than 20 hours per week. Children ages 15-17 are limited to eight working hours per day, up to a maximum of 40 hours per week. The law forbids the employment of persons under age 18 in hazardous or dangerous work.

Child labor remained a common problem, and a significant number of children were employed in the informal sector as domestic workers in the urban economy or as unpaid family workers in rural agricultural areas. NGO and government officials continued to report cases in which family members sold children to employers for domestic labor or sexual exploitation. The April 2010 Philippine Labor Force Survey estimated there were more than 2.4 million working children between the ages of 15 to 17 in the country; the majority were laborers and unskilled workers. There were no recent, reliable estimates of the number of working children below age 15, but UNICEF's *Annual Country Report 2010* noted uneven survey data indicating approximately four million children between the ages of five and 17 worked at least four hours a day, including a million child domestic workers who were almost all girls. Child workers were often exposed to hazardous working environments in industries such as mining, fishing, pyrotechnic production, domestic service, garbage scavenging, and agriculture, especially sugar cane plantations.

Most child labor occurred in the informal economy, often in family settings. The government, in coordination with domestic NGOs and international organizations, continued to implement programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government devoted additional resources to programs that sought to prevent, monitor, and respond to child labor during the year, resources remained inadequate.

The government imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to remove child workers from hazardous situations. From January to September, DOLE conducted four operations involving the removal of 24 child laborers.

Also see the Department of Labor's *2010 Findings on the Worst Forms of Child Labor*.

d. Acceptable Conditions of Work

Tripartite regional wage boards of the National Wage and Productivity Commission increased the daily minimum wage rates for agricultural and nonagricultural workers in 10 out of 13 regions during the year. Minimum wages in the nonagricultural sector were highest in the National Capital Region, where the minimum daily wage rate was 426 pesos (approximately \$9.80). The lowest minimum wage rates were in the Southern Tagalog Region, where daily agricultural wages were 199 pesos (\$4.60). The law exempts minimum-wage earners from paying income tax.

Given the overall low minimum wage, coupled with the fact that many workers are not covered by the regulations, several labor groups protested in May that the national minimum wage did not provide adequate worker protection. The government estimate from 2009 claimed that a family of five needed a daily income of 231 pesos (\$5.30) to stay out of poverty. On December 1, the National Statistical Coordination Board reported 3.9 million families living below the poverty line.

By law the standard workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour-per-day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. There is no legal limit on the number of overtime hours that an employer may require.

The law provides for a comprehensive set of occupational safety and health standards. However, workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

Most labor laws apply to foreign workers who must obtain work permits and may not engage in certain occupations. Typically, their work conditions were better than those faced by citizens, as they were generally employed in the formal economy and were recruited for high-paying, specialized positions.

DOLE's Bureau of Working Conditions is mandated to monitor and inspect compliance with labor law in all sectors, including workers in the formal sector, nontraditional laborers, and informal workers, and to conduct inspections of SEZs and businesses located there. The department employed 254 labor inspectors nationwide to monitor and enforce all aspects of the law, including by conducting inspections of compliance with core labor and occupational safety standards and minimum wages.

There were gaps and uneven applications of law. For example, regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person; as the law allows, these individuals were frequently paid less than the minimum wage for other occupations. Boards also exempted some

newly established companies and other employers from the rules because of factors such as business size, industry sector, export intensity, financial distress, and level of capitalization. As a result of these exemptions, the law did not cover a substantial number of workers. During the year the boards granted minimum wage exemptions to 137 establishments, about which unions filed complaints.

DOLE acknowledged that insufficient inspection funds impeded its ability to investigate labor law violations effectively, especially in the informal sector and the 66,360 companies with 10 to 199 workers. These midsized companies, unionized establishments, and those with collective bargaining agreements were permitted to file voluntary self-certifications to verify law compliance. DOLE provided training and advisory services for enterprises with less than 10 workers to help them with compliance and allowed establishments with more than 200 workers to undertake voluntary self-assessments of compliance.

DOLE also acknowledged that a shortage of inspectors made law enforcement difficult. Penalties for noncompliance with increases or adjustments in the wage rates as prescribed by law are a fine of 25,000 pesos (\$580) to 100,000 pesos (\$2,300) and/or two to four years' imprisonment at the court's discretion. In addition to fines, the government used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily.

DOLE conducted only sporadic inspections to enforce limits on workweek hours. During the year labor inspectors made 1,843 checks on company compliance with general labor and working standards and found 140 to have violations.

DOLE has responsibility for policy formulation and review of standards for working conditions, but with too few inspectors nationwide, local authorities often must accomplish enforcement. DOLE continued a campaign to promote safer work environments in small enterprises.

Violations of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in government-designated SEZs. During the year the Bureau of Working Conditions inspected 30,727 firms: 10,049 were found to have violated core labor standards, 6,066 of which were found to be out of compliance with minimum wage rates. Many firms hired employees for less than minimum apprentice rates, even if there was no approved training in their production-line work. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

During the year DOLE's Occupational Safety and Health Center provided training and information dissemination to 13,726 participants involving 3,716 companies to reduce accidents and illnesses at work. The NGO Institute for Occupational Health and Safety Development, which conducts research on occupational health and safety issues, recorded 90 deaths and 76 injuries due to work. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. For example, on March 25, DOLE imposed double indemnity penalties and fines totaling 6.95 million pesos (\$160,000) on the general contractor and 13 subcontractors of the Eton construction project in Makati City who were involved in a January 27 accident that killed 10 workers.

The government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. Although the Philippine Overseas Employment Administration (POEA) successfully registered and supervised domestic recruiter practices, authorities often lacked sufficient resources to ensure worker protection overseas. The government continued to place financial sanctions on, and bring criminal charges against, domestic recruiting agencies found guilty of unfair labor practices. For example, in May the POEA cancelled the recruitment license of Great World International Management, Inc., and in August the Justice Department filed cases against three suspected recruiters from the firm who reportedly recruited women illegally to work as domestic workers in Kuwait. Applicants had paid the agency placement fees, but the promised work never materialized.