



Open Government Partnership
 Independent Reporting Mechanism
Philippines: Comments Received on the
Design Report 2019-2021

Comments Submitted by Philippines Extractive Industries Transparency Initiative (PH-EITI)

Content	Page	Comment / Revision
<p><i>In the extractive sector, the Philippines has made considerable progress on accountability since joining the Extractive Industry Transparency Initiative (EITI) in 2013,23 becoming the first country to have achieved satisfactory progress against all EITI standards.</i></p>	<p>7, 2nd to the last paragraph</p>	<p>1. Change “<i>Extractive Industry Transparency Initiative</i>” to “<i>Extractive Industries Transparency Initiative</i>”.</p> <p>2. Change “<i>all EITI standards</i>” to “<i>the 2016 EITI Standard</i>”.</p>
<p><i>by mainstreaming of EITI in the Philippines</i></p>	<p>33, 1st paragraph</p>	<p>3. Remove “of”</p>
<p><i>Mainstreaming EITI entails the creation and issuance of policies, and development of web-based systems that will effective systematic disclosure (to replace traditional publication) of data and information about the extractive industries in the country (mining, oil, and gas).</i></p>	<p>33, 1st paragraph</p>	<p>4. Change to “effect”</p>

<p>PH-EITI website EDGE provided centralized extractive economic, environmental, operational, payment, and social data (Milestone 1).</p>	<p>34, 2nd to the last paragraph</p>	<p>5. Rephrase:..<i>the PH EITI website provided centralized extractive economic, environmental, operational, payment, and social data through the Extractives Data Generator (EDGE) (Milestone 1).</i></p> <p>6. Update 8th footnote links from "http://ph.eiti.dof.gov.ph/edge.ht</p>
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		<p>ml" to "https://pheiiti.dof.gov.ph/extractive-data-generator/" and from "https://contracts.eiti.dof.gov.ph/" to "https://contractsph.eiti.dof.gov.ph/"</p>
	<p>33, 2nd row of the table</p>	<p>7. Suggestion to include "Public Accountability" and "Technology & Innovation for Transparency and Accountability" as areas of relevance for the PH-EITI commitments</p>

Comments Submitted by Undersecretary Benjo Santos M. Benavidez, Department of Labor and Employment, Government of the Philippines

In April 2021, we submitted to the PH-OGP Secretariat our comments on the first draft of the IRM Report where we noted several baseless statements in the said Report. We also emphasized that our commitment to promote inclusivity in tripartite advisory councils does not come at the expense of the right to unionize in the country. However, the latest draft of IRM

Report does not reflect any of our inputs.

In the spirit of fair play, we seek that the foregoing observations be considered in finalizing the IRM Report.

IRM Report Section	Comment
<ul style="list-style-type: none">• The International Trade Union Confederation (ITUC) considers the Philippines one of the world's ten worst countries for workers.• While labor and human rights are enshrined in Philippines law, unions continue to face a hostile environment.• Despite written protections, the Philippines ranked as one of the 10 worst countries for workers in 2020 according to the International Trade Union Confederation.• In recent years, union suppression has manifested as labeling unions as "subversive organizations" and through the arrest and assassination of union leaders.• Moreover, employers should be prevented from delegitimizing genuine unions by labeling their activities as "subversive."	<p>We express serious concern over how the IRM Report paints the state of labor relations in the country based merely on ITUC's Global Rights Index.</p> <p>We first emphasize that DOLE is in constant communication with ITUC regarding the Philippine Government's application of ILO Convention No. 87. However, ITUC did not even bother to acknowledge, more so consider, our replies in its report.</p> <p>Furthermore, ITUC's rating of the Philippines is based on unsubstantiated and unfounded allegations of arbitrary arrests, violence, murder, and union busting. These reports are isolated cases and are not without action. Appropriate investigation and resolution were initiated and continuously pursued.</p> <p>Hence, we maintain that these allegations are insufficient to conclude that the country has one of the worst working conditions.</p>

<ul style="list-style-type: none"> • The government and employers have curtailed unions' ability to practice constitutionally guaranteed rights to organize, bargain, negotiate, and strike. • Employers also outsource jobs and increase use of contract workers to inhibit unionization. • This is important given the recent decline in unions' power as well as government restrictions on labor organizing. 	<p>The claim that the government and employers curtail or restrict the workers' right to self-organization is baseless in law and in fact.</p> <p>The workers' right to self-organization is absolute. Organizing is one thing, registration for purposes of certification as the sole and exclusive bargaining agent is another thing. In fact, DOLE treats unregistered labor organizations as if with legal personality by maintaining constant partnership and communications with them through tripartism and social dialogue.</p>
<ul style="list-style-type: none"> • This environment has hobbled unions' ability to effectively represent themselves in the national and regional TIPCs. 	<p>The context of this statement should be further clarified. Contrary to this claim, even unregistered labor organizations and other civil society organizations are represented in tripartite councils.</p>
<ul style="list-style-type: none"> • The commitment revisits RA 10396 (the Conciliation-Mediation Law), which regulates labor dispute resolution. 	<p>Since our commitment under the revised 5th NAP no longer specifies the review of R.A. No. 10396, we request that this be deleted from the commitment analysis.</p>
<ul style="list-style-type: none"> • By 2018, trade union density was only 7.5% in the Philippines, with many laborers in the informal sector. 	<p>We manifest that several factors affect trade union density¹. Furthermore, unionizing the unorganized is not a chief government function. Organizing is the function of employees and unions.</p> <p>It is also misleading to make a connection between trade union density and the population of workers in the informal sector. The Labor Code extends the right to self-organization to ambulant, intermittent and itinerant workers, self employed people, rural workers, and those without any definite employers for purposes of mutual aid and protection.</p> <p>As of June 2021, there are 85,748 registered workers associations nationwide.</p>

<ul style="list-style-type: none"> January 2019 data shows that of people aged 15 and over, 43.7 million (out of 72.5 million) are in the labor force, mainly in agriculture (22.2%), industrial (19.7%), the service sector (58.1%), and salary workers (65.8 %); about a third (26.2%) are self employed. Unpaid family workers make up 4.7% while 3.3% are employers in their own family operated farm or business. 	<p>This sentence should be deleted as these employment statistics are irrelevant to the commitment analysis.</p>
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¹ Union density rate = ratio of total union membership to the total employment x 100.

<ul style="list-style-type: none"> This commitment promises to significantly broaden participation in the councils to include public-sector, informal, and migrant workers. 	<p>We note that the enumeration is incomplete. The expansion of membership in tripartite councils include representatives from the public, women, youth, informal, and migrant workers.</p>
<ul style="list-style-type: none"> Tripartism and social dialogue provides workers and employees an equal opportunity to participate in decision-making processes on employment policies. 	<p>Through tripartite councils, sectoral representatives are not only given the opportunity to participate in government policy-making processes but also in the enforcement and implementation of policies and regulations. In fact, in the past years, DOLE has been authorizing qualified sectoral representatives to join in the conduct of inspections of establishments to determine compliance with labor laws and social legislations.</p>
<ul style="list-style-type: none"> Additionally, it is important that including non-unionized workers in social dialogue does not come at the expense of further undermining unions. Broader inclusion of informal and marginalized workers is of the utmost importance but should not come at the expense of diluting unions' power. 	<p>It was overbroad to state that including the marginalized sectors in tripartite council might dilute unionism.</p> <p>We reiterate our April 2021 comment that tripartism and social dialogue are mechanisms through which the labor, employer, and government sectors can jointly discuss labor and employment issues and work together to come up with solutions. Social dialogue is never intended to replace unionism, nor will it dilute unions' power.</p>

We must emphasize that rather than making sweeping and baseless statements, the commitment analysis should discuss the commitment's potential impact and how it ensures participatory governance in consonance with OGP values. We hope that we have made our points clear and that proper corrections be made to the IRM Report for accuracy and fairness.