



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### List of issues in relation to the combined fifth and sixth periodic reports of the Philippines\*

#### I. General information

1. Please provide information on the measures taken to ensure the direct application of the Covenant provisions in the domestic legal order. Please also provide examples of cases where the economic, social and cultural rights recognized in the Covenant have been invoked before and/or applied by the domestic courts, and indicate on which basis this could be achieved, despite the absence of economic and social rights in the bill of rights included as article III of the Constitution.
2. Please indicate whether the State party is considering signing, ratifying or acceding to the Optional Protocol to the Covenant.
3. Please provide information on the steps taken to enact Senate bill No. 2818 (an act strengthening the functional and structural organization of the Commission on Human Rights), with a view to expanding the investigatory powers of the Commission in cases relating to economic, social and cultural rights, strengthening its institutional and operational independence and ring-fencing its resources.
4. Please provide information on the measures envisaged to ensure the effective enforcement of the Anti-Enforced or Involuntary Disappearance Act, and whether the adoption of the Act will put an end to impunity in cases of killings and disappearances of trade union activists, indigenous leaders and other human rights defenders advocating economic, social and cultural rights. Please also provide information concerning the sentences passed on perpetrators in the past four years. Please indicate whether, beyond the adoption of the above-mentioned Act, other measures were taken to prevent attacks against human rights defenders and to end impunity for crimes against all human rights defenders. Please specifically indicate whether such measures will provide sufficient protection from such attacks perpetrated or encouraged by non-State actors.

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\* Adopted by the pre-sessional working group at its fifty-seventh session (7-11 March 2016).



## **II. Issues relating to general provisions of the Covenant (arts. 1-5)**

### **Article 1 (2) — Right to freely dispose of natural wealth and resources**

5. Please provide information on the steps taken to review the Mining Act of 1995 with a view to ensuring the protection of the rights of indigenous peoples to their ancestral land. Please indicate whether the Philippines intends to speed up the adoption of the National Land Use Bill. Please also provide information on the so-called no-go zones from which mining operations are excluded, and on steps being taken to ensure that such zones are demarcated.

6. Please provide updated statistical data on indigenous peoples in the State party, including their numbers and presence across the territory. Please indicate whether indigenous peoples are duly consulted and whether their free, prior and informed consent is obtained in any decision-making processes affecting their rights under the Covenant, and provide examples. Please provide information on the effectiveness of the Indigenous Peoples' Rights Act of 1997 and on the ability of the National Commission on Indigenous Peoples to deal with complaints of alleged violations of indigenous peoples' rights under the Covenant.

### **Article 2 (1) — Maximum available resources**

7. Please provide information on corruption cases filed with the constitutional anti-corruption bodies, including in particular those cases brought against senior civil servants and high-level officials, the number of cases filed, investigated and prosecuted, and any convictions for bribery. Please provide information on the measures taken to strengthen the enforcement of anti-corruption legislation and to combat impunity for corruption, and indicate whether the Philippines intends to give priority to the adoption of the Freedom of Information Act.

8. Please provide updated information on public spending on social services, particularly in the areas of social security, social housing, health and education. Please also provide information on the measures taken or envisaged to further increase public spending in these areas.

### **Article 2 (2) — Non-discrimination**

9. Please provide information on the steps taken to expedite the adoption of a comprehensive anti-discrimination law. Please also provide information on the steps taken to review existing provisions that may result in discrimination in the enjoyment of economic, social and cultural rights of certain individuals and groups: specifically, does the Philippines intend to re-examine section 29 (a) (2) of the Immigration Act, which allows the prohibition of entry or expulsion of migrant workers on the grounds of health status (an infection or illness) and pregnancy; sections 269 and 272 (b) of the Labour Code, restricting the trade union rights of migrant workers; and article 200 of the Revised Penal Code, making lesbian, gay, bisexual and transgender persons subject to arrest and prosecution by means of the "grave scandal" provision?

### **Article 3 — Equal rights of men and women**

10. Please provide updated information on the status of the bills, as indicated in the State party's report (E/C.12/PHL/5-6, paras. 47-50), which aim at repealing gender discriminatory provisions. Please also provide information on the steps taken to review the interpretation of the Code of Muslim Personal Laws (Presidential Decree No. 1083).

### **III. Issues relating to the specific provisions of the Covenant (arts. 6-15)**

#### **Article 6 — Right to work**

11. Please provide information on the measures taken to create decent work opportunities in both the public and private sectors, particularly for young people. Please also provide information on the measures taken to effectively implement the Employment Quota Scheme (1 per cent) for the employment of people with disabilities. Please indicate the steps taken to address the high rates of underemployment. Please include data, disaggregated by sex, age and disability, on labour market participation, unemployment and underemployment over the past four years.

#### **Article 7 — Right to just and favourable conditions of work**

12. Please provide updated information on the adoption of the Bill on the Magna Carta for Workers in the Informal Economy. Please also provide information on the legislative or policy measures adopted to address the situation of the large number of employees working on precarious contracts in the formal economy.

13. Taking into account the Committee's general comment No. 23 (2016) on the right to just and favourable conditions of work, please provide updated information on the minimum wages in particular, with regard to:

(a) The levels of minimum wages and the average wages in the past five years, both in agricultural and non-agricultural sectors;

(b) The applicability of and coverage (in percentage of the workforce) of the minimum wage, and whether many business establishments are granted exemptions from complying with the minimum wage (those hiring apprentices, learners or disabled workers, or those establishments regularly employing fewer than 10 workers);

(c) The basis on which the minimum wage requirements are reviewed and adjusted to ensure that they are sufficient to provide a decent living for workers and their family members; and the measures taken or envisaged to raise those minimum wages falling below the poverty threshold;

(d) The measures taken to enforce the legislation on minimum wages and on the sanctions and fines imposed on employers who fail to pay the minimum wages, both in the formal and informal sectors of the economy.

14. Please provide information on the implementation of the two-tiered wage system, and indicate the number of employees covered by the system and the proportion of total employees concerned. Please indicate the measures taken to ensure that those who are not covered by the system receive fair and equal wages.

15. Please provide information on the implementation of Republic Act No. 10361 (act instituting policies for the protection and welfare of domestic workers), adopted on 18 January 2013, and whether the impacts of this reform have been assessed.

16. Please provide information on the measures taken to narrow the large and widening gender pay gap in both the public and private sectors. Please also provide information on the measures taken or envisaged to give, in law and in practice, full interpretation of the principle of equal remuneration for men and women for work of equal value.

17. Please provide information on the measures taken to effectively enforce the regulations relating to occupational health and safety, particularly in the informal economy, the export processing zones and the mining sector. Please also provide information on labour inspections in this regard, and indicate whether the strengthening of the inspection

programme through the adoption of the new labour law compliance system has proved effective. In particular, has this reform been complemented by the adoption of practical measures to assist workers to enforce their rights to receive minimum wages?

18. Please provide information on the effectiveness of the amended Migrant Workers' Act (Republic Act 10022), particularly regarding access to legal and consular assistance in cases in which the rights of migrant workers have been violated. Please indicate the efforts made to disseminate information on the protection and assistance provided by the State party's consulates to migrant workers abroad.

#### **Article 8 — Trade union rights**

19. Please provide information on the steps taken to amend the legal provisions that limit trade union rights, including the relevant sections of the Labour Code. Specifically, can the Philippines commit to reviewing section 234 (c) of the Labour Code (minimum membership requirement); section 263 (g) (compulsory arbitration with regard to collective action in the provision of essential services); section 270 (receipt of foreign assistance to trade unions); section 237 (a) (requirements for the registration of federations or national unions); and sections 269 and 272 (b) (union rights of foreign workers)? Will gaps remain following the completion of the reforms that have been launched?

#### **Article 9 — Right to social security**

20. Please provide information on contributory schemes for social benefits in the State party, including the type, applicability and coverage of those benefits. Which measures are taken to ensure that the benefits are sufficient to ensure the beneficiaries an adequate standard of living? Which measures are taken to gradually extend such benefits to workers in the informal economy?

21. Please provide information on the steps taken to expand the coverage of the social pension for indigent senior citizens and to increase the amount of the benefit so as to ensure enjoyment of an adequate standard of living. Please also provide information on other non-contributory social assistance benefits such as child benefits and disability benefits, including their coverage and amount. Did the State party identify segments of the population that are unable to enjoy these benefits, such as homeless people, and if so, which measures are being taken to ensure universal coverage?

#### **Article 10 — Protection of the family, mothers and children**

22. Please provide updated information on the status of the bills aiming to amend the Family Code and the Anti-Rape Law of 1997, referred to in the State party's report (E/C.12/PHL/5-6, paras. 132-133 and 137-139).

23. Please provide information on the steps taken to strengthen the fight against trafficking in human beings and to combat the complicity of law enforcement officials in such trafficking. Please indicate the measures taken to protect people affected by natural disasters, particularly children, from being victims of trafficking. Please provide information on the specialized services provided to victims of trafficking, particularly boys.

24. Please provide information on the measures taken to strengthen the legislative framework to prevent and prohibit child labour. Please also provide information on the measures to strengthen inspections with respect to child labour and on the outcome of such inspections, including sanctions imposed on the perpetrators, and whether measures have been taken specifically to eradicate child labour in the agricultural sector. Please indicate the measures taken to facilitate recovery and access to educational opportunities for former child workers.

**Article 11 — Right to an adequate standard of living**

25. Please indicate the main reasons for the consistent high level of poverty in the State party, despite continuing high economic growth and a number of measures taken to reduce the poverty level. Please provide information on the steps taken to enhance the effectiveness of poverty reduction policies.

26. Please provide information on the measures taken to address the large number of people experiencing hunger and malnutrition, particularly measures aimed at children and pregnant women, and indicate the status of the bill providing a framework for the right to adequate food.

27. Please provide information on the measures taken to secure legal security of tenure and to improve living conditions of people living in informal settlements. Please include statistical data on the number of informal settlements and the number of people living there, as well as the number of social housing units provided by both public and private developers in the past four years.

28. Please explain the reasons for the increase in the number of evictions carried out over the past few years, with reference to, among other things, the main causes of eviction, and the individuals and groups affected. Please provide information on the measures taken to ensure that the evictions are carried out in accordance with relevant domestic laws and international human rights standards, in particular the Committee's general comment No. 7 (1997) on the right to adequate housing and the 2007 basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18).

**Article 12 — Right to physical and mental health**

29. Please provide information on the measures taken to expand the coverage of the National Health Insurance Programme and the range of health-care services provided through the Programme. Please also describe which measures are being taken to improve access to health care, especially for indigenous peoples, people living in rural areas and low-income families.

30. Please provide information on measures taken to address the high level of maternal mortality, in particular with respect to deaths caused by unsafe abortion. Please indicate the steps taken to re-examine the criminalization of abortion, with a view to introducing appropriate exceptions. Please also provide information on the steps taken to improve access to reproductive health services and information and the use of contraceptives. Please provide information on the number of teenage pregnancies in the past four years.

31. Please provide information on the measures taken to address environmental hygiene issues, such as air and water pollution. Please also provide information on the measures taken to enhance capacity for disaster risk reduction and emergency preparedness for natural disasters.

**Articles 13 and 14 — Right to education**

32. Please provide information on the measures taken to address the low completion levels in primary education (75.8 per cent), particularly among working children, children living in remote and rural areas and children affected by armed conflict.

33. Please indicate the proportion of Philippine students who pursue higher education and the measures taken to make higher education accessible and affordable, particularly for students from disadvantaged and marginalized families.

34. Please provide information on the measures taken to enhance the quality of public education and to reduce the rate of Filipinos who are functionally illiterate. Please also

provide information on the measures taken to regulate the private education sector. Please indicate the measures taken to ensure free primary education for all without direct and indirect costs.

**Article 15 — Cultural rights**

35. Please indicate the measures taken to protect cultural diversity, to promote awareness of the cultural heritage of ethnic, religious or linguistic minorities and of indigenous communities, and to create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs. Please also indicate the measures taken to ensure affordable access to the benefits of scientific progress and its applications for everyone, including disadvantaged and marginalized individuals and groups.

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