



## International Covenant on Civil and Political Rights

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### Human Rights Committee

104th session

New York, 12-30 March 2012

### List of issues to be taken up in connection with the consideration of the fourth periodic report of the Philippines (CCPR/C/PHL/4)

#### Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

1. What is the status of the Covenant and the Optional Protocol under domestic law in the State party? Please state whether the provisions of the Covenant are directly applicable by domestic courts and to what extent they are invoked and applied. Please also provide information on the availability and accessibility of remedies for individuals claiming a violation of the rights contained in the Covenant.
2. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. Please indicate what concrete steps have been taken to implement the Committee's Views adopted in respect of the State party in which the Committee found a violation of the Covenant.
3. Please explain whether any steps have been taken to strengthen the mandate of the Centre for Human Rights of the Philippines (CHRP) and to provide it with adequate resources, in line with the principles relating to the status of national institutions for the promotion and protection of Human Rights (Paris Principles). Please provide an update on the status of Senate Bill No. 2818 which, inter alia, seeks to confer prosecutorial powers on the CHRP. Please also provide information on the establishment of a human rights commission for the Autonomous Region in Muslim Mindanao as foreseen in Republic Act 6734.

#### Counter-terrorism measures and respect of Covenant guarantees (art. 2)

4. Please indicate the measures that have been adopted to ensure that the implementation of the Human Security Act of 2007 in the State party's activities to combat terrorism complies with the Covenant. Please provide information on the nature of crimes that fall under the definition of "terrorist crimes" under the Human Security Act of 2007.

**Non-discrimination, equality between men and women (arts. 2, para (1), 3 and 26)**

5. Please provide information on the measures taken to eliminate all forms of discrimination in the State party. What is the scope and status of the Anti-Discrimination bill(s) that have been presented to the Congress? Please explain the measures being taken to ensure that homosexuality is not subjected to criminal sanctions under the Revised Penal Code. What measures are being taken to eliminate discrimination on the ground of sexual orientation and gender identity?

6. Please provide information on the measures being taken to improve de facto: (a) women's status in political, economic and social life; (b) the percentage of women employed in elected positions and the public sector, and (c) equal pay for work of equal value between men and women. Please indicate the specific steps taken to eliminate the persistent patriarchal attitudes and deeply rooted stereotypes regarding the roles and responsibilities of women and men in the family and society. Furthermore, please indicate the policies adopted to deal with the overrepresentation of women in the informal employment sector and the rights of women migrant workers who are at risk of multiple forms of discrimination.

7. Please indicate any measures taken to fully implement the Magna Carta for Women of 2009. Also, please indicate any measures taken to revise the Code of Muslim Personal Laws which, inter alia, discriminates on the basis of religion with regard to the age of marriage for girls, and also permits polygamy and arranged marriages. Furthermore, please explain how the provisions of the Anti-Rape Law of 1997, which permit a wife, as an offended party, to forgive her husband for the crime of spousal rape, are compatible with the Covenant.

**States of emergency (art. 4)**

8. Please provide information on any states of emergencies that were declared during the reporting period. In this regard, please provide information on the rights that were subject to restriction during such states of emergencies.

**Right to life (art. 6)**

9. Please respond to allegations that extrajudicial killings and enforced disappearances remain a wide-spread phenomenon in the State party. Please provide updated information on: (a) the investigations carried out; (b) the types of penalties imposed, and (c) any compensation awarded to the victims. In relation to the so-called 'Ampatuan massacre' that witnessed the killing of 58 people in *Maguindanao* on 23 November 2009, please provide updated information on the details of the case. Furthermore, please state the measures taken to ensure the safety of investigators and witnesses from harassment, intimidation and assassination attempts. Please provide information on the measures taken to ensure effective human rights training for members of security forces. What is the status of Senate Bill No. 2817 on Enforced or Involuntary Disappearance of 2011? What is the status of the National Monitoring Mechanism that was set up to, inter alia, monitor progress in addressing extrajudicial executions and enforced disappearances?

10. In May 2010, the Independent Commission against Private Armies reported that there were at least 72 active private armed groups. It is also reported that the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and politicians support militias and private armed groups, which groups are largely responsible for the killings of political dissidents, journalists, trade union activists and human rights defenders. Please provide information on the measures that the State party is taking to disband and disarm

these groups and ensure that perpetrators of any human rights violations are prosecuted and, if convicted, punished with appropriate penalties.

11. Please respond to allegations that there is a high rate of teenage pregnancies, clandestine abortions and maternal mortality in the State party that are allegedly attributable to the strict anti-abortion provisions under the Revised Penal Code of 1930 and restricted access to contraceptives and family planning services. It is reported that in 2008 alone an estimated 500,000 abortions took place in the State party resulting in 90,000 women seeking treatment for abortion-related complications, and a total 1,000 women died. Please indicate the measures being taken to revise the Penal Code which proscribes abortion without exceptions. What measures are being taken to eliminate maternal mortality? Furthermore, please state the measures being taken to repeal an Executive Order No. 0003 issued by the city of Manila that bans the use and access of modern contraceptive products and services in health facilities funded by the local government unit, which ban has been emulated by other provinces such as Bataan. What is the status of the Reproductive Health bill?

**Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 7, 9, 10 and 14)**

12. Please provide information on the accessibility of family courts established in major cities to protect the rights of women against violence. Please provide information on the progress made to combat violence against women since the establishment of these family courts, the use of protection orders and shelter services, as well as rape crisis centres that were due to have been set up in provinces and cities. Please provide statistical data on prosecutions, convictions, sanctions and the remedies provided with respect to violence against women in the State party.

13. Please provide information on the measures taken to combat the alleged widespread torture and ill-treatment of individuals, which are allegedly perpetrated by law enforcement and military personnel. Please respond to allegations that such acts are seldom investigated and prosecuted thereby perpetuating a climate of impunity in the State party. Please provide information on: (a) the progress made to address complaints of torture or ill-treatment against the police, military and other officials; (b) the number of complaints received; (c) investigations carried out; (d) types of penalties imposed; (e) compensation awarded to the victims of torture or ill treatment and (f) training in human rights for the police, military and other officials. Furthermore, please provide information on the measures taken to prosecute police officers who were caught on camera torturing Darius Evangelista.

14. Please respond to allegations that arrests without warrants are widespread particularly under the Human Security Act of 2007, which Act also allows detention without charge for up to 72 hours. It is also reported that most individuals are held in detention for longer than the maximum prison terms that they would have served if convicted. Please provide information on the measures taken to ensure compliance with the provisions of the Covenant with respect to persons deprived of their liberty.

15. Please explain the measures that have been taken to investigate the circumstances surrounding the illegal arrest of 43 health workers in *Morong* town on 6 February 2010, who were detained until 11 December 2010. Furthermore, please respond to allegations that the AFP and the PNP arrest and detain individuals arbitrarily and that in 2010 alone 80 and 142 cases of arbitrary arrest and detention, respectively, were documented. What measures have been taken for the investigation and prosecution of law enforcement personnel involved in arbitrary arrests and detention?

16. The Department of Interior and Local Government (DILG) reported that most places of detention in the State party operate at an average of 400 per cent over their designated capacity, and that Manila city prison that was built to hold 1,000 inmates, held 5,300 inmates by the end of 2010. It is also alleged that juveniles are not segregated from adult prisoners. Furthermore, it is reported that in many provincial prisons, female prisoners are held together with male inmates, and that male correction officers continue to guard female inmates. Please provide information on the measures being taken to reduce overcrowding and improve the sanitary conditions of prisons in the State party to comply with the rights under the Covenant. What alternative forms of sentencing has the State party adopted to foster prison decongestion? What measures are being taken to segregate juveniles and adult prisoners, on the one hand, and female and male inmates on the other hand?

17. According to information before the Committee, places of detention under the mandate of the Bureau of Corrections and the PNP are congested mainly with pretrial detainees. Please provide information on any measures being taken by the State party to expedite the prosecution of cases and reduce the number of pretrial detainees in the State party's prisons and detention facilities.

18. Please respond to allegations that there is widespread corruption in the judiciary. Please indicate any measures taken to combat this phenomenon and, also to improve judicial efficiency by filling in the 531 vacancies for judgeship position in the State party. Finally, please respond to reports that, although the law prescribes time limits for the disposition of cases by courts, it takes, for instance, an average of 5 to 10 years to obtain a conviction which partly affects the length of pretrial detention.

### **Elimination of slavery and servitude (art. 8)**

19. Please provide updated information on: (a) the progress made to prevent trafficking in human beings, which is allegedly prevalent among women and girls for employment, prostitution and exploitation, (b) the prevalence of this phenomenon, expressed in up-to-date statistical data disaggregated by gender, age and ethnic origin; (c) the number of prosecutions, convictions and sanctions imposed on persons involved in human trafficking; (d) any training programmes for professionals involved in implementing the State party's measures against trafficking, including the police, the judiciary, members of the prosecution authorities and social workers; and (e) the successes and constraints of any programmes that are intended to assist victims of trafficking. In this context, please provide specific information on the implementation of the Anti-Trafficking in Persons Act.

20. Please explain the measures that are being taken to eliminate child labour, which is reportedly prevalent in the State party particularly in the informal business sector. Furthermore, please provide an update on the progress of the case involving a Metro Manila Garment factory that employed 10 child labourers.

### **Freedom of movement and right to privacy (arts. 12 and 17)**

21. According to information before the Committee, political dissidents, human rights defenders and members of their families are put under surveillance by State authorities. Please explain how such measures are compatible with the Covenant.

### **Freedom of opinion and expression, and freedom of association (arts. 19 and 22)**

22. Please provide information on the measures taken to combat the use of bribes mainly by politicians to induce favourable reporting among journalists in the State party. Please

explain the measures being taken to address the widespread harassment and killings of media practitioners, in particular journalists. Please respond to reports that the State party has failed to adequately investigate these killings and that prosecutions have been slow.

23. Please respond to reports that foreign workers are prohibited from forming or joining trade unions unless the State party has a reciprocal agreement on this matter with their countries of origin. Please explain what measures are being taken to abolish this requirement.

### **Non-discrimination, marriage, family and measures for the protection of minors (arts. 2, 23, 24 and 26)**

24. Please respond to reports that domestic law does not provide for divorce but that the courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. Further, please respond to allegations that although marriages can be terminated through a legal annulment, the cost precludes annulment as an option for most families such that couples from many lower-income families simply separate informally without severing their marital ties. Please explain the measures taken to protect the rights of children in the event of an informal separation particularly with regard to custody. Please explain what measures are being taken to ensure the registration of births for all children in the country.

25. According to information before the Committee, minors continue to be used in the production of child pornography and cybersex operations. Please provide information on: (a) the prevalence of this phenomenon, expressed in up-to-date statistical data disaggregated by gender, age and ethnic origin; (b) the number of prosecutions, convictions and sanctions imposed on persons involved in child pornography; (c) any training programmes for professionals involved in implementing the State party's measures against child pornography, including the police, the judiciary, members of the prosecution authorities and social workers; and (d) the successes and constraints of any programmes that are intended to assist minors as victims of pornography.

26. Please respond to allegations that children continue to be recruited by militias for insurgency activities where they are involved as combatants and perform auxiliary tasks. Please provide information on the progress made so far to prevent the recruitment and use of child soldiers. Please explain the measures being taken to address the reported increase in recruitments in 2010/11 and ensuring effective monitoring, as well as coordination and sharing of information among all relevant international and national stakeholders.

### **Right to participate in public life and vote in free and fair elections, equality and non-discrimination (arts. 25 and 26)**

27. Please respond to reports that in 2009 the AFP issued a statement that it would allow lesbians and homosexuals to serve in the military provided that they adhere to the Code of Ethics, which includes policies against the expression of their homosexuality among military personnel. Furthermore, please respond to reports that the AFP issued a warning to gay police officers that they must not act in a manner that is associated with homosexuality such as 'swaying of hips' or engaging in "lustful conduct", failing which their employment would be terminated. How are such instructions compatible with the Covenant? Please explain what actions are being taken to tackle homophobic attitudes and prejudices in state institutions and society?

28. According to information before the Committee, the Commission on Elections (COMELEC) rejected an application for accreditation by an LGBT group LADLAD to participate in the 2010 elections on grounds of morality arguing that homosexuals are a

threat to young persons. Please explain what measures are being taken to provide an environment in which all political parties and their members have equal rights and legal status to participate freely in the State party's periodic elections.

**Rights of persons belonging to minorities (art. 27)**

29. Please provide information on any measures being taken to implement the Indigenous Persons Rights Act, as well as to address the human rights violations of indigenous peoples in areas of armed conflict where they have allegedly been displaced, subjected to enforced disappearance and abducted by armed groups. Please respond to allegations that the AFP revived the vigilante group *Alsa Lumad* (Rise, Indigenous Peoples) and is arming indigenous groups as part of the AFP's counter-insurgency strategy against the New Peoples' Army (NPA). Please provide information on the measures being taken to ensure that indigenous peoples are protected from abduction, disappearance, and that their rights under the Covenant are fully respected.

**Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

30. Please provide information on the steps taken to disseminate information on the Covenant and the First Optional Protocol, the submission of the fourth periodic report of the State party, and its forthcoming examination by the Committee. Please also provide more information on the involvement of representatives of ethnic and minority groups, civil society, non-governmental organizations, and the national human rights institution in the preparatory process of the report.

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