



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I am writing pursuant to your Government's engagement during the third cycle of the Philippines' Universal Periodic Review (UPR). As the final outcome report on the review of the Philippines was recently adopted by the Human Rights Council at its 36th session, I take this opportunity to follow up on a number of areas raised in the two reports that my Office prepared for the review – the compilation and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 95 delegations, the presentation and responses by your delegation, and the action taken by your Government to implement the 63 recommendations it had supported during the second cycle of the UPR. These areas cover a range of issues and are set out in the annex to this letter.

I am encouraged by your delegation's statement during the review that your Government was in the process of drafting its human rights action plan which could enable the Philippines to achieve concrete results in the areas identified in the annex and could also facilitate preparation for the fourth cycle of the UPR. The development of such a plan should include consultations with all stakeholders, in particular the NHRI and civil society organisations, and, where necessary, the support of international organisations, including my Office and other United Nations entities, under the leadership of the UN Resident Coordinator.

The Philippines is encouraged to strengthen its national mechanism for comprehensive follow-up and reporting in relation to international and regional human rights mechanisms and treaty obligations. I strongly recommend to the Philippines the use of the practical guide released by my Office in 2016 and which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please be advised that I will be sharing this advice with all Member States as they go through the third cycle of the UPR with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. In this regard, I encourage the Philippines to submit such a report for the third cycle, by September 2019.

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H.E. Mr. Alan Peter S. Cayetano
Secretary of Foreign Affairs
The Philippines



As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals"*.

I look forward to holding discussions with you on ways in which my Office may best assist the Philippines to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the ILO Minimum Wage Fixing Convention, 1970 (No. 131), the ILO Safety and Health in Construction Convention, 1988 (No. 167), the ILO Private Employment Agencies Convention, 1997 (No. 181), and the 1961 Convention on the Reduction of Statelessness;
- Lift all of the pre-conditions in relation to the planned visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions to investigate the alleged extrajudicial killings of suspected drug dealers;
- Enact a law to establish an effective national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

National human rights framework

- Clarify the status of the Convention on the Elimination of All Forms of Discrimination against Women in the national legal framework and ensure the precedence of its provisions over national laws in cases of conflict, particularly in light of the jurisprudence of the Supreme Court which recognized the supremacy of national law;
- Expedite the adoption of the Commission on Human Rights Charter (Senate bill No. 2818) and provide the Commission with full functional, structural and financial support;
- Enhance transparency, accountability and participation in the conduct of public affairs by fully implementing the Good Governance and Anti-Corruption Plan for 2012-2016 and beyond.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Adopt comprehensive anti-discrimination legislation, which among other elements, will prohibit discrimination on the basis of sexual orientation and gender identity, and remove all discriminatory provisions in existing laws.



Development, the environment, and business and human rights

- Avoid unsustainable export-oriented agro-industry, as well as large land acquisition projects for cash crops, in order to protect smallholder farmers and to maintain self-sufficiency;
- Ratify the Paris Agreement which the Philippines had already signed and address the challenges in implementing the 2011-2028 National Climate Change Action Plan.

Human rights and counter-terrorism

- Review and revise the Human Security Act of 2007 to define, with sufficient precision, the crimes of terrorism and the nature and scope of the acts constituting such crimes.

B. Civil and political rights

Right to life, liberty and security of person

- Urgently stop all extrajudicial killings and any incitement to commit such killings; and bring the Government's methods of combating the use of illegal drugs in line with international standards;
- Maintain the abolition of the death penalty. In this regard, the move by Congress to reinstate the death penalty will violate the Philippines' international obligations, including those obligations arising from the Second Optional Protocol to the International Covenant on Civil and Political Rights to which the Philippines is a State Party;
- Address the concerns about the proliferation of private armies and vigilante groups who were partly responsible for extrajudicial killings and enforced disappearances, as well as concerns about the high number of illegal firearms;
- Effectively implement the Anti-Torture Act, and provide compensation to and formulate a rehabilitation programme for victims of torture;
- Immediately close all secret places of detention;
- Address the concerns about overcrowding in prisons, the detention of child offenders in regular prisons and who were not separated from adult prisoners, the sub-standard training of prison guards, and the inadequate food, water, sanitation and medical care in prisons.

Administration of justice, including impunity, and the rule of law

- Strengthen the independence of the judiciary and the capacity of the judicial system to address the huge backlog of cases in response to concerns raised by the Committee against Torture. Furthermore, guarantee all detained persons prompt access to a lawyer immediately upon being deprived of their liberty and, if necessary, to legal aid; and address the excessive length of pre-trial detention and release all

persons whose pre-trial detention exceeded the maximum sentence applicable for their alleged offences;

- Strengthen the presence and capacity of family courts in all provincial areas in response to concerns raised by the Committee on the Rights of the Child;
- Further to the relevant concerns of the Committee against Torture over the extraction of confessions through the use of torture, review all cases where convictions had been based solely on confessions and ensure that persons convicted on the basis of evidence gained through coercion or torture and ill-treatment were afforded a new trial and adequate redress;
- Strengthen the witness protection programme to address concerns by the Committee against Torture that victims and witnesses of torture had been reluctant to report cases for fear of harassment, reprisals and lack of protection;
- Withdraw Bill No. 922 in Congress lowering the minimum age of criminal liability of a child from 15 to 9 years to address concerns raised by the Committee on the Rights of the Child and the Committee against Torture;
- The Judicial Authorities are urged to urgently launch credible and independent investigations into the killings resulting from police operations and the reported drug-related homicides in the context of the Government's campaign against illegal drugs. The Judicial Authorities are also urged to launch investigative processes following the President's admission that, as Mayor of Davao, he had killed people;
- Ensure thorough investigation and prosecution of all cases of child pornography and human trafficking and in that regard address the complicity of law enforcement, judicial and immigration officials.

Fundamental freedoms and the right to participate in public and political life

- Consider decriminalizing defamation in line with the concerns of the Human Rights Committee;
- Address all concerns at the continuing cases of harassment, disappearance, threats and killings of human rights defenders raised by, amongst others, the Committee on Economic, Social and Cultural Rights;
- Undertake efforts to address the underrepresentation of women from vulnerable groups, such as indigenous and Muslim women, in all areas of political and public life.

Prohibition of all forms of slavery

- In light of domestic servitude being one of the most prevalent forms of cross-border trafficking, develop a legal framework to explicitly address contemporary methods of trafficking in persons, as



recommended by the Committee on the Elimination of Discrimination against Women;

- Eradicate the trafficking in Filipino men, women and children for labour exploitation within the Philippines, as well as the trafficking in women and girls for sexual exploitation.

Right to privacy and family life

- Ensure the protection of the privacy and safety of child victims in the media and the criminal justice process and eradicate the sexualisation of children, especially in television shows;
- Eradicate the sale of children for the purpose of illegal adoption.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Address the concerns by the Committee on Economic, Social and Cultural Rights over the contracting out of workers for periods of five months, a practice called “contractualization” that was legitimized by the 1989 “Herrera Law” (Act No. 6715);
- Address the conflict between the Labour Code and the Contract of Service under the Nurse Deployment Project of the Department of Health which provided for the termination of a female nurse’s employment contract if she became pregnant;
- Reinstate the national minimum wage which was abolished by the Wage Rationalization Act of 1989;
- Address concerns about the persistent occupational gender segregation, with women concentrated in social and caregiving work, as well as concerns about the wide gender wage gap, and the restrictive interpretation of the principle of equal pay for work of equal value to the disadvantage of women;
- Address concerns about the widespread sexual harassment of women in the workplace and the prevalence of impunity in that regard.

Right to social security

- Address data privacy issues within the registry of the National Household Targeting System for Poverty Reduction in accordance with the 2012 Data Privacy Act;
- Address the concerns of the Committee on Economic, Social and Cultural Rights that the public spending on social protection was low; that the Social Pension for Indigent Senior Citizens covered only 28.5 per cent of the statutory pension age population; and that the amount of the benefit was insufficient to ensure an adequate standard of living for beneficiaries and their families.



Right to an adequate standard of living

- Address the limited access to sufficient and nutritious food as a result of poverty and the high rate of poverty particularly in those regions of the country experiencing conflict and insurgencies;
- Address the concerns of the high incidence of poverty among small-scale fisher folk and landless farmers, as expressed by the Committee on Economic, Social and Cultural Rights;
- Adopt a national right-to-food framework law based on time-bound benchmarks and effective implementation plans for each region and pass the Right to Adequate Food Bill, the National Land Use and Management Act, the Agrarian Reform Extension Law and all other pending bills relating to the right to adequate food and nutrition;
- Address the issue of land-grabbing and the partial implementation of the Comprehensive Agrarian Reform Program Extension with Reforms which left many farmers landless;
- Address the concerns that public funding allocated to social housing remained low and that the provision of social housing remained insufficient;
- Consider reviewing the Urban Development and Housing Act which legalized forced evictions and demolitions, and address the inadequate measures taken to provide appropriate relocation sites or adequate compensation to families who had been forcibly evicted.

Right to health

- Address the concerns by the Committee on the Elimination of Discrimination against Women that women's access to sexual and reproductive health services was still severely restricted; that the numbers of early pregnancies, unsafe abortions and HIV infections were increasing, particularly among adolescent girls;
- Work towards halting and reversing the spread of HIV/AIDS and reducing the maternal mortality rate which has not changed over the previous three decades;
- Amend articles 256 to 259 of the Criminal Code to legalize abortion in cases of rape, incest, threat to the life and/or health of the mother or serious malformation of the foetus and to decriminalize all other cases in which women underwent abortion.

Right to education

- Take further measures to ensure that school-age children completed their education and to address the lower number of girls enrolled in pre-primary and primary education compared to boys.



D. Rights of specific persons or groups

Women

- Address the heightened risk of violence, exploitation and abuse, as well as discrimination in political and public life, marriage and family relations, employment, education, access to justice and health care to which Muslim women, indigenous women, women with disabilities, women who were migrant workers, internally displaced women and lesbian, bisexual, transgender and intersex women were exposed;
- Harmonize all relevant legislation with the Magna Carta of Women, including the Family Code, the Penal Code, the Anti-Rape Law, the Anti-Sexual Harassment Act and the Code of Muslim Personal Laws;
- Address the concerns about the intensification of gender-based violence against women, including by members of the armed forces, in conflict-affected areas and in areas of large-scale development projects;
- Expedite the amendment of the Anti-Rape Law incorporating lack of consent as a primary element in the definition of rape and raising the minimum age of sexual consent, from 12 years, to at least, 16 years.

Children

- Prioritize the passage of the draft law on Children in Situations of Armed Conflict and sign the draft strategic plan by the armed forces identifying concrete steps to protect children affected by armed conflict and in the course of military operations;
- Adopt the Anti-Corporal Punishment Bill (No. 2182) making corporal punishment children unlawful;
- Take measures to protect children from abduction and military recruitment by armed groups.

Persons with disabilities

- Allocate sufficient funding for disability-related programmes and services;
- Ensure that sufficient measures are taken to ensure that persons with disabilities have equal access to all public facilities and services; and address their specific difficulties in gaining access to social housing.

Minorities and indigenous peoples

- Fully implement the 1997 Indigenous Peoples' Rights Act and protect the indigenous peoples' ancestral lands from mining and forestry;
- Mitigate and address the displacement of the indigenous peoples of Mindanao, known as *Lumads*, who had been disproportionately affected by the long-standing conflict between the Government and the New People's Army.



Migrants, refugees, asylum seekers and internally displaced persons

- Address the concerns of The Committee on the Elimination of Discrimination against Women relating to the widespread exploitation and abuse of Filipino women migrant workers employed abroad, and provide sufficient support to reintegrate returning women migrant workers;
- Address the concern that the Labour Code had impeded the right of migrant workers in the Philippines to form or join a trade union;
- Revise the legal framework to enable refugees and stateless persons who had completed their education in the Philippines to take a licensure examination enabling them to practise their profession;
- Assess the immediate needs of all people who were displaced by Typhoon Haiyan and who were in bunkhouses or transitional shelters and improve the services provided to them;
- Ensure that all people in Mindanao, Zamboanga and Maguindanao who had been displaced by the long-standing internal armed conflict receive the necessary assistance and support.

Stateless persons

- Address the concern by the Committee on the Rights of the Child that a high number of children had not been registered, especially in Mindanao;
- Ensure the birth registration of Filipino migrant children abroad in view of the concerns raised by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.