



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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SUMMARY RECORD OF THE 871st MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 29 April 2009, at 3 p.m.

Chairperson: Mr. GROSSMAN

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of the Philippines (CAT/C/PHL/2, CAT/C/PHL/Q/2,
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1. At the invitation of the Chairperson, the delegation of the Philippines took their places at the Committee table.
2. Ms. BASILIO (Philippines) said that the 20-year gap in the submission of periodic reports by the Philippines was due to the fact that, during that period, the country had faced numerous difficulties that had required its Government's full attention. Preparing such reports was a heavy load for developing countries, even in normal circumstances, and the Philippines therefore welcomed the efforts made by treaty bodies to simplify the process. It was firmly committed to fighting torture, in accordance with the Convention.
3. Mr. SALO (Philippines) said that the Philippines' system of government was democratic and republican and that sovereignty resided with the people, from whom all governmental authority emanated. Civilian authority took precedence over military authority at all times. The Philippines guaranteed full respect for human rights and encouraged NGOs and community-based or sectoral organizations that promoted the welfare of the nation.
4. Legislative power was exercised by the Congress, composed of the Senate and the House of Representatives. Executive power was exercised by the President, who combined the functions of Head of State and Head of Government. Judicial power was exercised by the Supreme Court and lower courts, being regular courts and special courts, together with certain quasi-judicial agencies. The courts were responsible for determining whether there had been any abuse of power on the part of the public authorities or an agent of the State. In addition, the Philippines had three independent national commissions and other constitutional bodies, including the Office of the Ombudsman and the Commission on Human Rights, which was empowered to investigate, on its own initiative or in response to complaints, any violation of civil or political rights.
5. By virtue of the principle of separation of powers, the judicial authorities could not interfere in affairs of State except in the event of violation of an individual's constitutional rights or serious abuse of authority. The principle of separation did not, however, mean that those powers were not subject to any control or were completely independent from one another, as the Constitution provided for a system of checks and balances to secure coordination in the workings of the various departments of the Government.
6. Mr. PEREZ (Philippines) said that the Bill of Rights, an integral part of the Constitution, expressly prohibited the use of torture, force, violence, threat or any other means that vitiated free will against an individual under criminal investigation. It also stipulated that there should be no secret detention places and that nobody should be placed in solitary confinement. Any confession obtained in violation of those prohibitions was inadmissible. The Constitution provided for criminal and civil penalties for violations of those prohibitions, together with

measures to compensate and rehabilitate victims and their families. Contrary to certain claims, those guarantees were translated into fact, as evidenced in particular by one of numerous rulings handed down by the Supreme Court quashing a conviction by a court on the grounds that it had been based on confessions obtained through coercion of the individual concerned.

7. In its rulings, the Supreme Court had furthermore systematically considered that, in all cases where acts of torture were alleged, the courts should examine with the greatest scrutiny any evidence relating to confessions that had not been made spontaneously and should not accept such confessions unless they were corroborated by other testimony. Any visible sign of torture should prompt a judge to consider acquitting the person concerned on the grounds that his or her confessions had been obtained through coercion, in which case a complaint could subsequently be made against those responsible.

8. In the 1995 case of People v. Macoy and Diaz, the Supreme Court had set out the custodial investigation procedures to be followed by law enforcement officers and the rights of persons under arrest. The Supreme Court had based its ruling in that case on article III, section 12 (1) of the 1987 Constitution, which stipulated in particular that any person under investigation for the commission of an offence had the right to competent and independent counsel, preferably of his own choice. Under other legislation, confessions must be entirely in writing. The rules on custodial investigation procedures were the subject of Republic Act No. 7438, which laid down that any extrajudicial confession made by a person arrested, detained or under custodial investigation should be in writing and signed by the person in the presence of his counsel or, in the latter's absence, upon a valid waiver, in the presence of a member of his family, a mayor, a municipal judge, a district school supervisor, or a priest or minister of the Gospel as chosen by him, failing which the confession would be inadmissible.

9. Contrary to the statement that law enforcement officers and military personnel who had committed acts of torture or other violations in order to extract confessions could not be brought before the civilian courts, Republic Act No. 7055 had reinforced civilian supremacy over the military by returning to the civilian courts their jurisdiction over certain offences involving, in particular, members of the Armed Forces; a member of the military who committed an act of torture must submit to the jurisdiction of the civilian courts, which had the authority to determine whether the act in question was connected to the duties of the officer concerned. While it was true that any perpetrator of such acts would be subject to administrative penalties, such as suspension from duty or dismissal, that did not preclude him from criminal prosecution for assault, mutilation or murder.

10. It was in fact concern for respecting the rules on confessions obtained through coercion and guarantees of due process and for safeguarding the human rights of the accused that explained the slowness of certain criminal procedures. It was likewise the Philippines' adherence to the principle of presumption of innocence that explained its reluctance to accept the idea that the burden of proof should rest with the accused rather than the accuser in cases of torture. Similarly, it would be difficult for the Philippines to abandon the principle of the presumption of regularity of the performance of duty. The Philippines would not, however, ignore the proposals made for reform on the issue, but the changes requested required the adoption of a constitutional amendment, which must be the subject of a national debate.

11. Mr. SALO (Philippines) explained that the slowness in adopting the anti-torture bill resulted from the legislative process itself. Any bill was subjected to debate, consultation and public hearings, to which all concerned parties, both private and public, were invited to present their views, before being given three readings in the chamber to which it had been submitted. Once the text had been adopted by the House of Representatives or the Senate, it followed the same procedure before the other chamber. If two different versions of a bill had been submitted to the two chambers, a bicameral committee was given the task of harmonizing them, and the version thus obtained was once more submitted to the two chambers for adoption. Once the bill had been ratified by both chambers, it was transmitted to the President, who had 30 days to approve or reject it. By virtue of the separation of powers, the Executive could not interfere with the legislative process. The President was, however, empowered to declare a bill urgent, but the only effect would be to bypass the rule that three days must separate the second and third readings. The composition of Congress changed with each election, every three years. Bills that had not been passed during a legislative term could be submitted to Congress during the following term to undergo the legislative process again.

12. The adoption of the anti-torture bill was, however, being hindered by the fact that the Convention restricted the definition of torture to acts committed by State actors; acts of torture were also committed by non-State actors and it was therefore feared that the text could only be used against members of law enforcement agencies and would not be applicable to non-State actors. Legislators' views diverged on the question of whether article 1 (2) of the Convention, which was "without prejudice to any international instrument or national legislation which does or may contain provisions of wider application", authorized them to widen the definition of torture to acts by non-State actors. For all those reasons, the bill had not yet been passed, but the Philippine Government was firmly resolved to promulgate it as soon as possible.

13. Another draft text that should soon be adopted, the "Magna Carta of Women", transposed the Convention on the Elimination of All Forms of Discrimination against Women into domestic law. It provided, in particular, for stiffer penalties for perpetrators of violence against women, including State agents who committed extrajudicial killings, forced disappearances or acts of torture.

14. The adoption of the Human Security Act reaffirmed the Philippines' commitment to the fight against terrorism in all its forms, in compliance with relevant United Nations Security Council resolutions under which States parties had pledged to enact measures to prevent or put an end to acts of terrorism, in accordance with international law and human rights law. The definition of terrorism contained in that Act had been constructed by legislators taking into consideration other definitions, including those used by the Convention on Combating International Terrorism of the Organization of the Islamic Conference and by the Security Council. The Act contained numerous appropriate safeguards to guarantee that the rights of the accused would not be violated.

15. The Commission on Human Rights considered that section 19 of the Human Security Act, under which prolonging the detention of suspects beyond three days could only be authorized if a terrorist attack occurred or was imminent and with written agreement from certain bodies, including the Commission, diminished its independence in the exercise of its visitorial powers over detention facilities. The Government, for its part, considered that the Act explicitly

recognized the independence of the Commission and strengthened it by empowering it, along with other independent bodies, to rule in such cases on the necessity of prolonging detention of suspects.

16. Mr. GLORIA (Philippines) said that, in accordance with the principle of pacta sunt servanda, the Philippines complied with its obligations in good faith and made the necessary amendments to its domestic legislation to fulfil its international obligations. The doctrine of incorporation meant that the universally recognized principles of international law were considered to be automatically part of domestic law, but without having primacy. In the case of a conflict between a provision of international law and a provision of domestic law, attempts were made to reconcile them, but, if the conflict was insoluble, jurisprudence showed that courts in the Philippines followed domestic law as they were bound by it in all circumstances.

17. Bill No. 5846 penalizing acts of torture and other cruel, inhuman or degrading treatment or punishment, which was before the lower House, had two aims: to ensure that the rights of all persons, including suspects, detainees and prisoners, were respected at all times and that no person placed under investigation or held in custody of any person in authority was subjected to physical harm, force, violence, threat or intimidation or any act that impaired his or her free will; and to ensure full adherence to the principles and standards on the absolute condemnation and prohibition of torture set by the 1987 Philippine Constitution and various international instruments. The bill underscored that freedom from torture was a non-derogable right. No exceptional circumstances whatsoever (state of war, threat of war, internal political instability or any other public emergency) could be invoked as a justification for torture. Secret detention places, solitary confinement or other similar forms of detention where torture could take place with impunity were prohibited by the bill, which further provided that any confession, admission or statement obtained under torture was inadmissible, except to prove the guilt of a person accused of torture.

18. Mr. ROSALES (Philippines) said that the training and education of law enforcement officers was ensured by the Philippine Public Safety College, which was part of the Department of the Interior and Local Government and operated the Philippine National Police Academy, the Police National Training Institute, the Fire National Training Institute, the Jail National Training Institute and the National Police College. All courses given to all staff at all ranks and levels contained modules on human rights. The possibility of the Commission on Human Rights evaluating the programmes had been discussed with its chair. Enhancement seminars were organized from time to time on subjects such as human rights and international humanitarian law or access to justice for the poor.

19. Mr. BACALZO (Philippines) explained that the continuing training and education programme for the National Police, which included modules on human rights, had been institutionalized. Information on those rights was provided in all specialized training courses for the National Police, the new Chief of which had made human rights a priority and had issued Letter of Instructions 55/07 “PAMANA” (“Legacy”), a blueprint for human rights intended to turn the National Police into an institution that respected United Nations standards on human rights protection. The blueprint had four components: institutional policy development on human rights; capacity-building; prevention and control of human rights violations; and multisectoral cooperation.

20. Mr. BANAGA (Philippines) said that the Army had also integrated modules on human rights and international humanitarian law into all training programmes provided to the various forces and had begun a partnership with the Commission on Human Rights to evaluate those programmes.

21. Mr. ROSALES (Philippines) said that the Inter-Agency Council against Trafficking, created to coordinate and monitor the implementation of Republic Act No. 9208 of 2003 on fighting trafficking, was composed of the heads of government agencies and representatives of various branches of the private sector. It was conducting a range of projects intended to prevent and eliminate trafficking in the Philippines, to protect victims and help them readapt, and to convict those responsible for trafficking. The Department of Social Welfare and Development, which ran 42 refuges for victims of trafficking, had provided assistance to 874 such victims in 2008. The Philippines was fighting trafficking networks both at local and international levels. The national law enforcement agencies were affiliated to the INTERPOL I-24/7 system, which issued alerts about criminals. They were also members of the Chiefs of Police Conference of the Association of Southeast Asian Nations (ASEAN), chairing its committee on fighting trafficking. The Conference had a working group which was to meet in Manila to study the possible adoption by the ASEAN countries of a convention on the issue. At national level, a specialized police unit dealt with fighting trafficking and protecting women and children.

22. Mr. BACALZO (Philippines) added that in 2002 the National Police had started to put in place special women's and children's desks throughout the country, of which there were now 1,813, staffed by 2,503 female and 198 male police officers. The National Police's Women and Children Protection Centre, instituted in 2008, had also established partnerships with various international and local organizations, including the United States Agency for International Development, the United Nations Children's Fund, the United Nations Office on Drugs and Crime and the Inter-Agency Council against Trafficking.

23. Ms. ANGELES (Philippines) said that the Department of Justice, which co-chaired the Inter-Agency Council against Trafficking, had successfully convicted 15 people for violating Republic Act No. 9208. In 2008, 160 complaints of trafficking had been submitted to the national and local prosecution services, of which 80 were pending resolution, 37 had been brought to court as cases of trafficking, 16 had been brought to court as violations of other penal acts on trafficking and 27 had been dismissed, dropped or withdrawn. In 2008, the Anti-Human Trafficking Division of the National Bureau of Investigation, which was attached to the Department of Justice, had received 130 complaints, of which 112 were under investigation, 7 had been filed with the prosecutor's office and were under preliminary investigation, and 11 had been closed. A report by the National Police showed that, in 2008, 55 complaints had been filed, 18 with the courts and 37 with the prosecutor's office, in respect of which preliminary investigations were under way. The Ninoy Aquino International Airport Task Force against Trafficking had provided assistance to 37 victims of trafficking arriving from Malaysia, Kuwait, Nigeria, Saudi Arabia and the Syrian Arab Republic, of whom 24 had filed complaints with the National Police or the National Bureau of Investigation. Philippine missions abroad had reported victims of trafficking in various countries, of whom 26 were female, 11 male and 4 minors. Government efforts on the issue had borne fruit, as in 2006 the United States Department of State had removed the Philippines from its trafficking Watch List.

24. Mr. ROSALES (Philippines) said that Republic Act No. 9344 on justice for and protection of minors, promulgated in 2006, governed all measures applicable to children at risk or in conflict with the law, from prevention to reintegration. The text strengthened protection for the rights of children in conflict with the law and promoted re-education measures with a view to facilitating the reintegration of such children into their families and society. The Juvenile Justice Welfare Council had been created to ensure its effective implementation. Under the Act, minors under 15 years of age were not criminally responsible. For minors of between 15 and 18 years, the criterion of discernment applied, but, even if discernment was established, there was no sentencing and the minors in question were placed in rehabilitation centres for young people. In 2008, 325 minors in conflict with the law had thereby been able to avoid prison.

25. The Department of Social Welfare and Development administered 12 young offender centres, including a regional rehabilitation centre and a training centre. In 2008, 1,058 minors in conflict with the law had benefited from the services offered by those centres. The detention centre for minors in Metro Manila, jointly managed by the Bureau of Jail Management and Penology and the Department, currently housed some 50 young detainees, compared with 136 in 2006.

26. Penitentiary facilities for women run by the Bureau of Jail Management and Penology employed exclusively female staff. In accordance with the act on violence against women, female-only dormitories, with a capacity of 50 or more, had been established in around 30 prisons nationwide.

27. Guidelines on the treatment of detainees, contained in the operations manual of the Bureau of Jail Management and Penology, had been widely disseminated among the relevant staff and establishments. Representatives of civil society and international organizations, particularly the World Health Organization, made regular visits to the country's prisons to ensure that inmates were properly treated. The Bureau of Jail Management and Penology's inspection services ensured that prison authorities duly complied with their obligations and investigated any complaint against prison staff. Inmates who considered that their rights had been violated could bring their grievances to the head of the Bureau using a direct telephone line set up for the purpose.

28. The problem of prison overcrowding was receiving the Government's full attention. In 2008, the implementation of legal provisions on, among other things, conditional release, protection of minors and parole for good conduct had resulted in the release of 3,677 inmates. Paralegal officers and volunteers actively facilitated the process by informing inmates about the various modes of early release available under legislation and assisting them to complete the formalities necessary to benefit from them. Various bills on modernizing prison facilities and building new establishments were under discussion. A community service programme for convicted prisoners, being studied, should take pressure off prison facilities and facilitate early release of prisoners accepted to the programme through the creation of community service camps.

29. Mr. BENITEZ (Philippines) said that prison facilities for women or with female-only dormitories had the necessary female staff, both for surveillance and for welfare. Disciplinary measures applicable to prison staff, as set out in the rules established by the Civil Service Commission, included suspension, varying in length depending on the offence committed, and

dismissal. In the case of a criminal offence, the matter was brought to court. Several officers had been sentenced to prison terms under that procedure. The Bureau of Corrections included an internal affairs division to ensure that all violations were dealt with diligently in accordance with the relevant provisions.

30. Mr. CATURA (Philippines) said that, in order to prepare the ground for the creation of a national prevention mechanism under the Optional Protocol to the Convention against Torture, the Government had established a working group, in which several representatives of civil society organizations and NGOs had been invited to participate and which was responsible for assessing the state of detention facilities with a view to preparing a list of necessary improvements, exploring means of guaranteeing the effectiveness of a future national prevention mechanism in terms of the provisions of the Optional Protocol, and formulating operational methods and guidelines for that purpose. It could also make legislative proposals, particularly with regard to funding to upgrade all detention facilities in the country to United Nations standards.

31. For many years, the Philippine Government had been working closely with the International Committee of the Red Cross (ICRC), in the context of its regular visits to the country's detention centres, and had listened attentively to its recommendations. Alerted by the ICRC in 2007 to the need to reform its detention policy, in 2008 the Government, in cooperation with the ICRC, had organized a conference, bringing together national and international experts and high-level representatives of the executive, legislative and judicial authorities for joint consideration of how to improve the situation of inmates by providing access to legal advice services, preventing health crises and modernizing facilities. The Department of the Interior and Local Government and the ICRC would soon consult the various services within the criminal justice system on the establishment of an inter-agency mechanism to identify shortcomings in the system and their effects on prison conditions, and to prepare a strategic action plan to remedy them.

32. Mr. BACALZO (Philippines) said that the Philippine National Police's operational procedures were based, inter alia, on the provisions of the Constitution and Republic Act No. 7438, which protected the rights of those under arrest, in detention or in custody. The procedures set out in detail the obligations of police officers, investigators and custodial officers. Any violation automatically gave rise to an inquiry by the Internal Affairs Service. The operational procedures were being continually reviewed and modified to respond better to practical requirements. A new standard to safeguard the presumption of innocence now prohibited police officers, on pain of administrative sanctions, from exposing suspects to media enquiry.

33. Concerns had been expressed regarding arrests without warrant and the abuses in which they could result. Such arrests could only be made in circumstances expressly set out in law, namely when an offence was being or was about to be committed; when an offence had just been committed and the indications were that the person apprehended had committed it; or when the person apprehended was an escaped prisoner.

34. The special task force established to investigate murders of journalists and political militants was continuing its work. Of the 31 cases of murdered journalists reported to it to date, 26 had been brought to court and 5 remained unsolved, compared with 64 and 51 respectively for

murders of political militants. The President of the Republic had personally requested the National Police, the Armed Forces and other law enforcement bodies to do everything possible to put an end to such murders. In particular, she had ordered a system of monetary rewards to be established and a list of suspects to be circulated showing their photograph or portrait, and had invited the police forces to cooperate closely with the Department of Justice's task force on political violence cases.

35. Between 2003 and 2009, 70 judges, prosecutors and lawyers had been assassinated; 37 of those cases had been brought to court, while 33 remained unsolved. At the request of the President of the Republic, the National Police had created a special task force to work with the Court Administrator of the Supreme Court to introduce prevention measures.

36. Mr. BANAGA (Philippines) said that the geographical paramilitary units of the civilian defence forces (CAFGU) participated alongside the Armed Forces in internal security operations and that their members were therefore subject to the same regulations and sanctions as military personnel. Under current Armed Forces procedure, any violation must be reported immediately to the superior officer, who would then order an inquiry to be opened with a view to imposing the appropriate penalty, if necessary.

37. Ms. RAGSAC (Philippines) said that the police were continuing to investigate the alleged involvement of members of the Armed Forces in the abduction and holding of two female students who had disappeared in June 2006.

38. Ms. ANGELES (Philippines) said that the risk of torture was not expressly listed among the reasons for refusal provided for in bilateral extradition treaties concluded by the Philippines, but that such treaties set out guarantees which, in particular, allowed extradition requests to be refused if, taking into account the circumstances, including the age, state of health and other specific characteristics of the person concerned, extradition would constitute an unfair, unreasonable or overly severe penalty. Other provisions prohibited the extradition of persons to a country where there was serious reason to believe that they would be prosecuted or punished on account of their race, religion, nationality or political opinions. The Philippine Government had never extradited a person if there was reason to believe that he risked being subjected to torture and had never participated in illegal transfers.

39. Since its launch, the witness protection programme had enabled the judicial authorities to gather witness statements that had led to convictions in 35 cases of serious violations committed by State agents. By the end of 2007, almost 600 witnesses had benefited from protection under that programme. Judges who feared for their safety could also request personal protection under the same programme.

40. Ms. Banzon-Abalos (Philippines) said that the Government was devoting great attention to the problem of recruitment and use of children in armed conflicts. As a State party to the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, the Philippines prioritized the best interests of children, including in times of conflict and emergencies. The annual reports of the Secretary-General on children and armed conflicts listed three non-State armed groups in the Philippines, namely the Moro Islamic Liberation Front, the Abu Sayyaf group and the New People's Army, which recruited or used children in armed conflicts. As part of its comprehensive policy to protect children involved in

armed conflicts, the Government was implementing various strategies to ensure effective protection for such children. The Philippines ensured that child protection issues were covered in peace negotiations and that child protection measures were included in peace agreements and ceasefires.

41. It should also be pointed out that public bodies dealing with defence, law enforcement, social welfare, foreign affairs and local government, together with national commissions dealing with the rights of women, children and indigenous groups, were taking measures to protect children in armed conflicts. The Office of the Presidential Adviser on the Peace Process and the Office of the President were also taking such measures. Moreover, the Security Council Working Group on Children and Armed Conflict had commended the Philippines for the quality of its legal framework, its policies on child protection and other steps taken to address the issue of children involved in armed conflicts. It was also worth underlining that the visit of the Special Representative of the Secretary-General for Children and Armed Conflict to the country in December 2008 had been fruitful.

42. Mr. QUILAMAN (Philippines) said that the principle of protecting children in armed conflicts was enshrined in the Constitution and five landmark laws. In 2001, the Government had launched the Comprehensive Programme for Children Involved in Armed Conflict to address the growing issues resulting from the use of children by non-State actors and to promote the idea of “children as zones of peace”. An inter-agency committee on children in armed conflict had been created, and the number of government agencies addressing the issue had risen from 7 to 18. Steps had been taken to encourage participation by civil society, and the Office of the Presidential Adviser on the Peace Process had been designated as overall lead agency for matters relating to children involved in armed conflict.

43. Since 2004, the National Commission on Indigenous Peoples had organized training workshops for its coordinators and tribal leaders on collecting information about matters relating to children involved in armed conflicts. The Commission had been able to conduct information and education consultations with various indigenous communities and had attempted, in 2007, to document three cases that could serve as examples, in Mindanao, the Visayas and Luzon. In March 2009, all the required information had been assembled in 17 cases of children involved in armed conflicts in western Mindanao, and 6 others were well on the way to completion. The two supplementary cases targeted would be examined in May. It should be pointed out that all violations of the rights of indigenous children involved in armed conflicts had been committed by non-State actors and that numerous other cases of the involvement of indigenous children in armed conflicts had been identified in the country.

44. Mr. ERMITA (Philippines) said that it would have been desirable for the members of the Committee to have expressed their concerns sufficiently far in advance to enable the delegation to respond to all questions raised. For example, with regard to the 1,016 alleged cases of torture mentioned by the Committee during the previous meeting, based on information provided by an NGO, the Philippine delegation would need details of the exact nature of the events in question, where they were alleged to have taken place and the identity of the perpetrators. It was not the first time that the Philippines had been the subject of allegations from that NGO, which, in 2006, had already identified 836 cases of supposed extrajudicial killings, while investigations carried out by the Philippine Government, in conjunction with other NGOs and civil society groups, had

showed such allegations to be groundless in all but 145 cases, of which 139 had been investigated by the Commission on Human Rights. The 149 alleged cases of forced disappearance would also lead to investigations.

45. Ms. GAER (Country Rapporteur) thanked the delegation for its very detailed replies but regretted the lack of statistics on the number of complaints of torture and ill-treatment and on the results of all criminal or disciplinary cases brought. Any such data the Government had available would be of use to the Committee.

46. Given the delegation's statement that the President could only intervene in the legislative process to order the urgent adoption of a bill, it would be interesting to know whether that prerogative had been exercised with a view to adopting the anti-torture bill.

47. The delegation could have provided details concerning the independence of the various inquiry bodies that existed within the army, police and judicial system, as the numerous alleged cases of extrajudicial killing and forced disappearance did not seem to have actually resulted in fully independent investigations being conducted.

48. The Committee wished to know whether the State party was taking measures to protect left-wing militants, human rights defenders and trade unionists, who were constantly being targeted and suffering serious human rights violations.

49. The delegation should furthermore specify what criterion had been used as the basis for establishing a distinction between legitimate and illegitimate extrajudicial killings and exactly how the adoption of the anti-torture bill was being hindered by the fact that the Convention against Torture restricted the definition of torture to acts committed by State actors.

50. Mr. WANG Xuexian (Alternate Country Rapporteur) noted with satisfaction that the State party had increased the age of criminal responsibility to 15 years.

51. Noting that the average length of pretrial detention was three years and that it was then that the risk of torture or ill-treatment was highest, he invited the State party to take steps to avoid such acts being committed during such detention.

52. The delegation could also have responded to the reports that members of the Commission on Human Rights had been refused access to prison establishments and army detention facilities.

53. Article 13 of the Convention placed a double obligation upon States parties: to ensure that any individual who alleged he had been subjected to torture had the right to complain; and to ensure that complaints submitted were investigated promptly. It was therefore disturbing that the burden of proof rested with the victim and was not equally shared between the victim and the prosecuting authorities when there was evidence to suggest that confessions had been obtained under torture.

54. Lastly, it should be recalled that, despite the tensions present in some regions of the Philippines, article 2 of the Convention stipulated that no exceptional circumstances whatsoever could be invoked as a justification of torture.

55. Ms. BELMIR underlined the importance of the Philippines achieving the right balance between protecting individual rights and maintaining public order. Any person, even a terrorist suspect, must be protected against torture.

56. Ms. SVEAASS requested details on the measures taken by the State party to ensure rehabilitation, including psychological, for victims of acts of torture, and asked whether the Philippines was planning to make the declaration provided for in article 21 of the Convention.

57. Mr. MARINO MENÉNDEZ asked whether the jurisprudence of the Supreme Court or lower courts enshrined the irrefutable nature of the presumption of the regular performance of duties by members of law enforcement agencies when evidence gave reason to believe that they had committed an act of torture.

58. Mr. KOVALEV observed that, according to the delegation, in the event of a conflict between the provisions of a domestic legal instrument and an international treaty, international law did not take precedence, and he wondered how the Philippines could therefore fulfil the international obligations that it had assumed.

59. The CHAIRPERSON took note of the information that the delegation had provided concerning the basic rules on the prohibition of torture in the Philippines, but, bearing in mind the importance of the rules of proof applicable to the issue, asked how many cases of torture had been brought before the courts and how many had resulted in a conviction.

60. With regard to information on forced or involuntary disappearances brought to the Committee's attention, it should be underlined that, in general, the Committee took great care in considering information transmitted to it and that, in the present case, information on involuntary disappearances had been communicated to it by a Philippine senator whose name had already been mentioned.

61. Mr. ERMITA (Philippines) welcomed the fruitful dialogue with the Committee and looked forward to receiving its observations and recommendations, which would receive all the necessary attention from the relevant authorities. The Philippine Government fully supported efforts towards adopting the anti-torture bill, which it recognized as a crucial contributing factor to the effective implementation of the Convention in the country. The Government of the Philippines, a State party to eight core human rights instruments, had always been conscious of its obligation to respect, protect and promote the rights of the population and did not engage in or encourage any act of torture. Significant progress had been made since its ratification of the Convention against Torture in 1986, and the Philippines was convinced that, thanks to the strengthening of institutions to protect human rights, greater mainstreaming of human rights in the work of government agencies and intensified efforts to sensitize government officials and the citizenry through education and training programmes, it was in a position to enhance protection of its people, in accordance with the Convention against Torture.

The meeting rose at 5.10 p.m.