



**International covenant
on civil and
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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2140th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 21 October 2003, at 3 p.m.

Chairperson: Mr. AMOR

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.2140/Add.1.

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of the Philippines (continued) (CCPR/C/PHL/2002/2;
CCPR/C/79/L/PHL)

1. At the invitation of the Chairperson, the members of the delegation of the Philippines resumed their places at the Committee table.
2. The CHAIRPERSON invited the delegation to complete its responses to questions 21 to 34 of the list of issues (CCPR/C/79/L/PHL) and to questions raised orally by Committee members.
3. Ms. GUTIERREZ (Philippines) said that her delegation had been unable to contact the prosecutor handling the cases of the human rights defenders Eden Marcellana and Eddie Gumanoy in order to clarify the status of the proceedings because of the time difference between Geneva and Manila. She would pass on the information to the Committee as soon as it became available.
4. The Committee had asked about practical steps to ensure that the system of warrantless arrest was not abused, especially during anti-insurgency and anti-vagrancy drives. In the case of insurgents, the armed forces were bound by rules of engagement for the conduct of combat operations. In that connection, she drew attention to paragraph 518 of the report (CCPR/C/PHL/2002/2). Anti-vagrancy measures were usually applied to minors and the practice was to turn them over to their parents or to barangay (local council) captains, not on account of vagrancy but on account of violations of the curfew imposed on minors by local government units. Glue-sniffing street children were usually taken to shelter homes or, if necessary, to drug rehabilitation centres.
5. The New People's Army (NPA) had recruited minors and deployed them in combat operations. Since 1997, 210 cases of child victims of recruitment by insurgents had been documented: 133 had surrendered, 72 had been apprehended and 5 had been killed in clashes. She cited, among others, the case of a 12-year-old captured during an encounter in March 2000 who had been trained to handle and assemble an Armalite rifle.
6. The Department of National Defense had signed a memorandum of agreement with the armed forces of the Philippines, the Department of the Interior and Local Government, the Philippine National Police, the Department of Social Welfare and Development, the Department of Health, the Commission on Human Rights, the Office of the Presidential Adviser on the Peace Process and the National Program for Unification and Development Council on the handling and treatment of children involved in armed conflict. The memorandum specified the roles of the different agencies, referring in that context to the Convention on the Rights of the Child, the

United Nations Guiding Principles on Internal Displacement and Republic Act 7610, which provided a legal mandate to protect and promote the child's best interests and stated that children, as "zones of peace", should not be recruited to become members of any military unit or any other armed group or be allowed to take part in hostilities either directly or indirectly. The memorandum also affirmed the State's responsibility to treat children involved in armed groups who were rescued or who surrendered as victims rather than offenders.

7. The delegation needed more time to obtain the following data: on child soldiers and the employment of children under 15 years of age; on legal aid and its compliance with article 14 of the Covenant; on reports of the exploitation of women workers in the free-trade zones, especially allegations that they were not paid the minimum wage or compensated for overtime work; on compliance with the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; on cases in which the Covenant had been directly invoked in the courts; on the proportion of men and women in public service and the impact of the Philippine Development Plan for Women; on the cases of Juan Pala and other journalists; and on affirmative action for indigenous people. The delegation would provide answers later in the week to questions about the reintroduction of the death penalty and about military units or officers who had been disciplined or sanctioned in connection with enforced or involuntary disappearances.

8. With regard to the two bills regarding torture pending before Congress, the comments of a member of the Committee would be taken into account to ensure that the best possible definition of torture was adopted. A bill on the rights of homosexuals was also pending before Congress.

9. Steps were being taken to prevent abusive recourse to warrantless arrests during counter-insurgency operations. Captured insurgents were detained by the armed forces for 36 hours for tactical interrogation. The crime of rebellion was a serious offence warranting such a measure. After that period, they were turned over to the police and the courts for the preferment of appropriate charges. Some insurgents preferred to remain in military custody for their own safety. In such cases, they were asked to execute a waiver.

10. With regard to the role of the prosecution in the investigation of cases, she said that the prosecutor, on receiving a complaint, filed an information with the court when the evidence so warranted. In the case of warrantless arrests, inquiries were immediately conducted to ensure that the proper information was filed in court. Prolonged detention could entail prosecution of an officer under the Revised Penal Code.

11. The Public Attorney's Office and the National Prosecution Service were agencies of the Department of Justice. Neither prosecutors nor public defenders received high salaries but most remained in office out of dedication to the administration of justice. They were also attracted by the prospect of promotion and perhaps eventually entering the judicial branch.

12. Sir Nigel RODLEY said that the definition of torture in a bill before Congress read out by the delegation at the previous meeting corresponded to some extent to the definition contained in article 1 of the Convention against Torture but did not have the full purposive element of that definition. He wondered whether the delegation could explain why not.
13. The Committee had been informed by Amnesty International that the Philippine vagrancy legislation was sometimes used as a pretext for arbitrary arrest and detention. In particular, women sex workers were said to be routinely arrested by plain-clothes police officers driving private vehicles who failed to produce proper identification. They reportedly extorted money from the women or subjected them to sexual violence. Detained women and children were also allegedly subjected to sexual assault or promised release in return for sexual favours.
14. Ms. GUTIERREZ (Philippines) undertook to make representations to Philippine lawmakers to ensure that the definition of torture adopted by Congress was that contained in the Convention against Torture.
15. Any complaints from victims of extortion or other illegal acts by police officers should be brought to the attention of the Department of Justice; the officers concerned would be liable to prosecution under the Revised Penal Code. The National Commission on the Role of Filipino Women could assist in documenting the cases.
16. The CHAIRPERSON welcomed the wide range of information provided by the State party in its voluminous report. While the Committee's concluding observations would take account of the additional written material to be provided later that week, he pointed out that not all Committee members were proficient in the language in which the material would be provided. With regard to the late submission of the report, he urged the State party to adhere in future to the scheduled submission dates in its own interest and in that of the Committee. The delegation's answers to the list of issues had been short on practical detail. Information on legislation and policy was certainly useful but the Committee also needed to know about specific cases and trends so that it could assess the day-to-day human rights situation.
17. It was unclear whether the Covenant, which seemed to have primacy over legislation but not over the Constitution, could be invoked before the courts and effectively applied. The related decision by the Philippine Supreme Court and statements by senators were not reassuring in that regard.
18. The Committee was concerned about certain provisions of the bill on terrorism, especially the list of acts to be included in the definition, which could hardly be justified by reference to Security Council resolution 1373 (2001). What scope was left for human rights if the fight against terrorism could be invoked to justify all kinds of excesses, including assaults on the environment?
19. He agreed with Sir Nigel Rodley that the proposed definition of torture fell short of that contained in article 1 of the Convention against Torture, which the State party had ratified.

20. Questions about the indigenous peoples of the Philippines remained unanswered, and there were still many concerns regarding the situation of children, particularly children in armed conflict. As to the children on death row, whose age appeared to be unknown, it was difficult to understand how judgement could have been passed until it was clear they were not minors; it was up to the State party to establish their status first. With regard to deportations, the State party naturally had a sovereign right to deport foreigners who posed a risk to State security, but there must be a minimum of conditions, and those should be defined in the context of the Covenant.

21. Given the goodwill shown by the delegation during the dialogue, the Committee expected that it would receive full responses to its remaining questions and concerns.

22. Ms. GUTIERREZ (Philippines) thanked the Committee for the opportunity to present and discuss her country's second periodic report.

The public part of the meeting rose at 3.55 p.m.