



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
23 May 2023

Original: English

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-first to twenty-fifth periodic reports of the Philippines*

1. The Committee considered the combined twenty-first to twenty-fifth periodic reports of the Philippines,¹ submitted in one document, at its 2969th and 2970th meetings,² held on 19 and 20 April 2023. At its 2977th meeting, held on 26 April 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twenty-first to twenty-fifth periodic reports of the State party. The Committee also welcomes the constructive dialogue with the high-level delegation, and wishes to thank the delegation for the information that it provided during the Committee's consideration of the reports and after the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's accession to the Convention on the Reduction of Statelessness, on 24 March 2022, and to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 17 April 2012.

4. The Committee further welcomes the following legislative, policy and institutional measures taken by the State party:

(a) Republic Act No. 10353, the Anti-Enforced or Involuntary Disappearance Act of 2012;

(b) Republic Act No. 10368, the Human Rights Victims Reparation and Recognition Act of 2013;

(c) Republic Act No. 10627, the Anti-Bullying Act of 2013;

(d) Republic Act No. 11199, the Social Security Act of 2018;

(e) Republic Act No. 11188, the Special Protection of Children in Situations of Armed Conflict Act of 2018;

(f) United Nations joint programme on technical cooperation and capacity-building for the promotion and protection of human rights in the Philippines (2021–2024), signed on 22 July 2021;

* Adopted by the Committee at its 109th session (11–28 April 2023).

¹ CERD/C/PHL/21-25.

² See CERD/C/SR.2969 and CERD/C/SR.2970.



(g) Executive Order No. 163 of 2022, institutionalizing access to protection services for refugees, stateless persons and asylum-seekers.

C. Concerns and recommendations

Statistics

5. The Committee notes the statistics submitted by the State party, which provide the total population of Indigenous Peoples disaggregated by geographic location. However, the Committee regrets the lack of comprehensive and reliable publicly available statistics on the demographic composition of the population and data on socioeconomic indicators, disaggregated by geographic location, sex, gender, age and ethnic or national origin, including on non-citizens such as migrants, refugees, asylum-seekers, stateless persons and internally displaced persons, which limits the Committee's capacity to evaluate how different groups living in the State party exercise their rights under the Convention (arts. 1, 2 and 5).

6. **Recalling its reporting guidelines,³ the Committee recommends that the State party establish a system to systematically collect comprehensive data, based on the principle of self-identification, on socioeconomic indicators, disaggregated by geographic location, sex, gender, age and ethnic or national origin, including on non-citizens, to enable the Committee to better evaluate how different groups living in the State party exercise their rights under the Convention. The Committee invites the State party to make these statistics publicly available and to include them in its next periodic report.**

Incorporation of the Convention into the domestic legal order

7. The Committee notes the information provided by the State party that a total of 215 laws covering rights enshrined in the Convention were enacted between 2009 and 2018 and that several anti-discrimination bills have been submitted to and are pending before Congress. While some of these bills, including Bill No. 8243, include provisions that incorporate the definition of racial discrimination as enshrined under article 1 of the Convention and reflect the obligations of the State party under the Convention, the fact remains that no such bill has been enacted. The Committee remains concerned by the absence of a comprehensive anti-discrimination law that defines and prohibits racial discrimination in accordance with all grounds enshrined in article 1 of the Convention, including direct and indirect discrimination in accordance with article 1 (1), and incorporates all other substantive provisions of the Convention (arts. 1 and 2).

8. **The Committee recommends that the State party expedite the consolidation and adoption of an anti-discrimination bill, reiterating its previous recommendation that the State party adopt a comprehensive anti-discrimination law that defines and prohibits racial discrimination in accordance with all grounds enshrined in article 1 of the Convention, including direct and indirect discrimination in accordance with article 1 (1), and incorporates all other substantive provisions of the Convention.**

National human rights institution

9. The Committee welcomes the fact that the Global Alliance of National Human Rights Institutions has awarded A status to the Commission on Human Rights. Although numerous bills have been filed and proposals have been made outlining a charter that would consolidate and broaden the functions and powers of the Commission so as to include, in addition to existing functions and powers, the investigation of violations of economic, social and cultural rights and the formulation of recommendations on ratification, accession and implementation with respect to international human rights instruments, the Committee notes with concern that such a bill has yet to be adopted and that Executive Order No. 163 of 1987 remains in force, meaning that the functions and powers of the Commission are limited to the

³ CERD/C/2007/1.

investigation of violations of civil and political rights and the monitoring of compliance with international treaty obligations (art. 2).

10. The Committee recommends that the State party, in consultation with the Commission on Human Rights and civil society organizations, expedite the enactment of legislation providing for a charter of the Commission on Human Rights that outlines its functions and powers, including the investigation of violations of economic, social, and cultural rights and the formulation of recommendations on ratification, accession and implementation with respect to international human rights instruments.

Criminalization of racist hate speech and hate crimes

11. The Committee is deeply concerned by reports of hate speech, hate crimes and incitement to racial hatred by public and government officials, including statements made calling for the bombing of Indigenous Peoples and the rape of women belonging to ethno-religious minority groups. The Committee is concerned that the domestic law of the State party does not contain provisions that expressly declare racist hate speech and hate crimes offences punishable by law in accordance with article 4 of the Convention. In particular, the Committee is concerned by the information provided by the State party that racist hate speech is criminalized under the vague provisions prohibiting defamation under the Revised Penal Code and the Cybercrime Prevention Act 2012, which have been broadly interpreted so as to criminalize statements made by individuals exercising their freedom of speech, including those advocating their rights under the Convention, and have in turn silenced further expression (arts. 4, 6 and 7).

12. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, and recalling the recommendation of the Human Rights Committee that the State party decriminalize defamation,⁴ the Committee recommends that the State party:

(a) **Review its legal framework to explicitly declare hate speech and hate crimes offences punishable by law, criminalizing racist hate speech only in the most serious of cases, when proven beyond reasonable doubt, and governed by the principles of legality, proportionality and necessity;**

(b) **Take effective measures to ensure that the promotion of or incitement to racial discrimination by public authorities or public institutions, at both the national and local levels, is condemned, in accordance with article 4 (c) of the Convention;**

(c) **Take measures to monitor the spread of racist hate speech on the Internet and on social media;**

(d) **Take effective measures to encourage the reporting of racist hate speech and hate crimes, to ensure the availability and accessibility of reporting channels, and to collect data on complaints of racist hate speech and racially motivated crimes and on prosecutions, convictions and the penalties imposed for such complaints, and include this data in its next periodic report.**

Lands, territories and resources of Indigenous Peoples

13. The Committee notes the protection afforded under legislative provisions, including the Indigenous Peoples' Rights Act of 1997. However, the Committee is concerned about:

(a) Extractive and development projects being carried out on lands owned or traditionally used by Indigenous Peoples, particularly in Mindanao, Negros island, Luzon island and Quezon Province and following Executive Order No. 130 of 2021, by which the mining moratorium was lifted, without their free, prior and informed consent;

(b) The lack of legal certainty and of timely and effective mechanisms to ensure the protection of the rights of Indigenous Peoples and guarantees with regard to the titling,

⁴ CCPR/C/PHL/CO/5, para. 44 (e).

delimitation, demarcation and restitution of lands and territories traditionally occupied by Indigenous Peoples;

(c) Barriers to access to justice faced by Indigenous Peoples, including as a result of their geographic remoteness, linguistic barriers, and lack of understanding or awareness of laws and judicial processes, which limit their ability to access effective remedies, including fair and just compensation for the lands, territories and resources that they own or have traditionally used that have been confiscated, occupied, depleted or damaged (arts. 5 and 6).

14. The Committee recommends that the State party:

(a) **Ensure that Indigenous Peoples are consulted on projects or legislative or administrative measures that affect the land and natural resources that they own or have traditionally used, with a view to obtaining their free, prior and informed consent;**

(b) **Implement existing legislation, including the Indigenous Peoples' Rights Act of 1997, and provide in a timely manner the necessary legal recognition in accordance with international standards to guarantee the protection of Indigenous Peoples' right to own, use, develop and exercise full control over their lands, territories and resources;**

(c) **Adopt appropriate procedures, in coordination with judicial and agricultural authorities and other relevant institutions, to facilitate the reclamation and restitution of ancestral lands and territories;**

(d) **Address barriers to access to justice, including those resulting from geographic remoteness, linguistic barriers, and lack of understanding or awareness of laws and judicial processes, and guarantee the availability of legal aid and alternative dispute resolution in accordance with the rights, customs, traditions and cultures of the individuals and communities affected;**

(e) **Ensure access to effective remedies, with an emphasis on restitution, for Indigenous Peoples with regard to their lands, territories and resources, and in situations in which such remedy is considered by a court of law to be materially impossible, provide just and fair compensation and adequate and culturally appropriate relocation options for the Indigenous Peoples affected;**

(f) **In accordance with the Guiding Principles on Business and Human Rights, strengthen the framework of policies and their implementation with a view to preventing business entities from engaging in activities that adversely affect the rights of Indigenous Peoples, among other groups.**

Situation of ethnic, ethno-religious and ethno-linguistic minority groups and Indigenous Peoples in the context of armed conflict

15. While noting the establishment of the Bangsamoro Autonomous Region in Muslim Mindanao, the Committee remains concerned by the persistent violent clashes between security forces and non-State armed forces, which disproportionately affect ethnic, ethno-religious and ethno-linguistic minority groups and Indigenous Peoples, particularly in the regions of Mindanao and Negros island. The Committee is deeply concerned by the reports of serious human rights violations faced by these communities, including unlawful killings, abductions, enforced displacement, attacks and destruction of property, including schools. While noting the measures taken by the State party to address the basic needs of the communities inhabiting the regions affected by conflict and facing poverty, including through the Barangay Development Programme, the Committee notes with concern those communities' continued lack of access to basic social services and the harassment, intimidation, attacks and killings of community leaders expressing their basic needs and of community service providers (art. 5).

16. The Committee recommends that the State party:

(a) **Ensure prompt, thorough, independent and impartial investigations, including by the Ombudsman, of all human rights violations committed by State officials in the context of security operations, while guaranteeing effectiveness through**

the provision of adequate human, technical and financial resources and of reparations and psychological, material and other support to victims and their families, taking into consideration their customs, culture and traditions;

(b) Take the measures necessary to ensure access to basic services for those living in areas affected by conflict, and, to this end, eliminate the practice of harassment, intimidation, attacks and killings of community leaders expressing their basic needs and of community service providers, in particular teachers and health-care providers;

(c) Prioritize reconciliation and transitional justice processes, ensuring the meaningful participation of ethnic, ethno-religious and ethno-linguistic minority groups and Indigenous Peoples in the reconstruction of their communities, while guaranteeing accountability for human rights violations perpetrated by all armed forces;

(d) Ensure a human rights-based and gender-sensitive approach to all measures taken in relation to the communities in regions affected by conflict, including by implementing the recommendations made by the Human Rights Committee, the Committee against Torture and special procedures.

Situation of internally displaced persons

17. While noting the mitigation and response measures taken by the State party, including those under Memorandum Circular No. 34 of 2020 on the implementation of an Indigenous Peoples' community-driven development programme, and the Transitory Family Support Packages, the Committee is concerned that the State party has not taken sufficient preventive measures, in view of the fact that individuals and communities, in particular those belonging to ethno-religious minority groups in Mindanao, continue to face a significant risk of displacement resulting from conflict, natural disasters and climate change-related disasters and forced displacement in the context of large-scale extractive and development projects. Furthermore, while noting the various measures taken by the State party to address the basic needs of internally displaced persons, including shelter assistance, cash-for-work and food-for-work programmes, the Committee remains concerned that durable solutions to ensure that internally displaced persons enjoy their rights guaranteed under article 5 of the Convention have yet to be found (art. 5).

18. **The Committee recommends that the State party:**

(a) Take steps to adopt legislation for the protection of the rights of internally displaced persons, including those in the Bangsamoro Autonomous Region in Muslim Mindanao;

(b) Undertake impact assessments on a systematic basis and fulfil its obligation to ensure that consultations are held with Indigenous Peoples, before authorizing investment or development projects that could negatively affect their rights to the land and resources that they own or have traditionally used, with a view to obtaining their free, prior and informed consent;

(c) Take all the steps necessary to prevent individuals and communities, in particular those belonging to ethnic minority groups and Indigenous communities, from becoming the victims of forced displacement, and when such displacement cannot be avoided, ensure that the individuals and communities affected are provided with alternative adequate housing and compensation;

(d) Guarantee that all internally displaced persons have access to basic services, including through the allocation of sufficient financial and technical resources, while ensuring that a human rights-based and gender-sensitive approach is adopted in all policies and programmes taken to address the situation of internally displaced persons.

Situation of asylum-seekers, refugees, stateless persons and persons at risk of statelessness

19. The Committee notes the information provided by the State party on the measures taken to protect the rights of asylum-seekers, refugees, stateless persons and persons at risk of statelessness, in particular the Sama-Bajau community and persons of Indonesian descent, such as Executive Order No. 163 of 2022, institutionalizing access to protection services for refugees, stateless persons and asylum-seekers. However, the Committee is concerned that there is an absence of comprehensive legislation on protection and that some groups of persons of concerns and their protection needs, including unregistered children living in the context of forced displacement, have yet to be mapped or appropriately addressed (art. 5).

20. **The Committee recommends that the State party:**

(a) **Takes steps to enact comprehensive legislation on the protection of the rights of refugees, asylum-seekers, stateless persons and persons at risk of statelessness, including provisions for fair procedures for the consideration of applications and the determination of status, in accordance with international standards;**

(b) **Take further measures to collect qualitative and quantitative data on the asylum-seekers, refugees, stateless persons and persons at risk of statelessness in the country in order to assess their protection needs;**

(c) **Strengthen local civil and birth registration mechanisms in geographically isolated and conflict-affected areas in order to scale up civil and birth registration.**

Complaints of racial discrimination and access to justice

21. The Committee notes the measures taken by the State party to ensure access to justice, including the training of lawyers and judges. The Committee also notes Republic Act No. 11691, the Judicial Marshals Act, on the establishment of the Office of the Judiciary Marshals to investigate intimidation, harassment, attacks and killings perpetrated against judges, lawyers and other court personnel. The Committee regrets the lack of detailed information provided, including the numbers, types and outcomes, on cases or complaints involving direct or indirect racial discrimination on all the grounds provided for in article 1 of the Convention, including those brought by individuals belonging to ethnic minority groups or Indigenous communities (art. 6).

22. **The Committee draws the State party's attention to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and recalls that an absence of cases or complaints relating to racial discrimination does not mean that there is an absence of racial discrimination in the State party, but rather that there may be a lack of awareness of the remedies available, barriers to access to justice, fear of reprisals or unwillingness on the part of authorities to investigate or prosecute perpetrators of such acts. The Committee recommends that the State party:**

(a) **Conduct training for police officers, prosecutors and other law enforcement officials on the identification and registration of incidents of racial discrimination;**

(b) **Conduct public education campaigns to encourage the reporting of racial discrimination and to raise awareness of available remedies;**

(c) **Take effective measures to protect judges and lawyers from all forms of harassment, intimidation and attacks and investigate all reported incidents;**

(d) **Guarantee the effectiveness of the Office of the Judiciary Marshals and ensure that it has sufficient human, technical and financial resources;**

(e) **Establish a mechanism for collecting and publicizing statistics and information on cases and complaints of racial discrimination submitted to the national courts and other relevant authorities, including on the findings and on reparations provided to the victims.**

Human rights defenders and civil society involvement

23. The Committee is deeply concerned by the enforced disappearance and killings of, and the constant acts of violence, threats, intimidation, harassment and reprisals against, human rights defenders and leaders of Indigenous, ethno-religious and ethno-linguistic communities. In particular, the Committee is deeply concerned by the reports of “red-tagging”, including the killing of 9 and arrest of 17 Indigenous Tumandok leaders in a joint military and police operation on 30 December 2020 following accusations of their affiliation with the New People’s Army. Additionally, the Committee is concerned that the vague provisions of the Anti-Terrorism Act of 2020 may be interpreted for the purposes of judicial harassment, a practice which may in turn compound criminal profiling of ethnic minority groups and Indigenous Peoples. While noting the establishment, under Administrative Order No. 35 of 2012, of the Inter-agency Committee on Extralegal Killings, Enforced Disappearance, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Person, the Committee is concerned by the low number of investigations conducted, the delay in the investigation processes and the lack of information provided on the outcomes and on the prosecutions brought in connection with the crimes. The Committee regrets that it received just one submission from civil society (arts. 5 and 6).

24. The Committee recommends that the State party:

(a) **Take measures for and in consultation with the individuals and communities concerned, their families and those with whom they associate to protect them from enforced disappearance, killings and acts of violence, threats, intimidation, harassment and reprisals, particularly in the case of journalists and lawyers;**

(b) **Ensure that all allegations of such acts are investigated promptly, thoroughly, impartially and effectively, that those responsible are prosecuted and duly punished, and that the victims or their families are provided with full reparation;**

(c) **Review the Anti-Terrorism Act of 2020 in consultation with relevant stakeholders, including the Commission on Human Rights and civil society organizations;**

(d) **Organize information and awareness-raising campaigns on the crucial work done by human rights defenders, with a view to creating a climate of tolerance in which they can perform their work free from all forms of intimidation, threats and reprisals;**

(e) **Prevent judicial harassment by including modules on the principles of legal certainty, predictability and proportionality in training for law enforcement officers, prosecutors and judicial officials;**

(f) **Expedite the enactment of a bill on the protection of human rights defenders, and consult with the Commission on Human Rights and civil society organizations to that end.**

Training, education and other measures to combat prejudice and intolerance

25. While noting the measures taken by the State party to promote diversity and inclusion, including the establishment of the Inter-agency Committee on Diversity and Inclusion, under Executive Order No. 100 of 2019, to lead information campaigns, and the Epanaw (Journey) project to raise awareness of cultural practices, the Committee regrets the lack of specific information provided by the State party on measures taken to combat prejudice and intolerance (art. 7).

26. The Committee recommends that the State party:

(a) **Redouble its efforts to ensure high-quality public education and awareness-raising campaigns;**

(b) **Integrate human rights education into school curricula;**

(c) **Enhance activities related to the promotion of mutual understanding and tolerance among different groups;**

(d) Encourage public and private media to adopt and abide by codes of professional ethics and press codes that incorporate respect for the principles of the Convention and other fundamental human rights standards, including the avoidance of stereotyping and unnecessary references to ethnicity, religion and other group characteristics in a manner that may promote intolerance.

D. Other recommendations

Ratification of other treaties

27. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention for the Protection of All Persons from Enforced Disappearance.

Amendment to article 8 of the Convention

28. The Committee recommends that the State party accept the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

29. While recognizing the functions and powers of the Commission on Human Rights, which include the competence to investigate violations of civil and political rights, the Committee notes with concern that violations of other rights enshrined in the Convention may fall beyond the scope of this mandate, including those concerning the economic, social and cultural rights of individuals and communities belonging to ethnic minority groups and Indigenous Peoples. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Follow-up to the Durban Declaration and Programme of Action

30. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

31. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

32. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

33. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized on the website of the Department of Foreign Affairs in the official and other commonly used languages, as appropriate.

Common core document

34. The Committee encourages the State party to update its common core document, which dates to 1994, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006.⁵ In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

35. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 12 (a) (criminalization of racist hate speech and hate crimes), 20 (b) and (c) (situation of asylum-seekers, refugees, stateless persons and persons at risk of statelessness) and 22 (d) (complaints of racial discrimination and access to justice) above.

Paragraphs of particular importance

36. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8 (incorporation of the Convention into the domestic legal order), 10 (national human rights institution), 18 (b) and (c) (situation of internally displaced persons) and 24 (e) and (f) (human rights defenders and civil society involvement) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

37. The Committee recommends that the State party submit its combined twenty-sixth to twenty-ninth periodic reports, as a single document, by 4 January 2028, taking into account the reporting guidelines adopted by the Committee during its seventy-first session⁶ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

⁵ HRI/GEN/2/Rev.6, chap. I.

⁶ CERD/C/2007/1.