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Chairperson: Ms. Majodina

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

Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic report of the Philippines (CCPR/C/PHL/4; CCPR/C/PHL/Q/4)

1. *At the invitation of the Chairperson, the delegation of the Philippines took places at the Committee table.*
2. **Ms. De Lima** (Philippines) listed the legal instruments adopted since the consideration of the State party's previous periodic report in 2003, which included an Act abolishing the death penalty, the Magna Carta of Women and an Act on crimes against international humanitarian law, as well as the mechanisms implemented. Since 2003, the Philippines had ratified the two Optional Protocols to the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention relating to the Status of Stateless Persons, the Rome Statute of the International Criminal Court and the Optional Protocol to the Convention against Torture.
3. Summarizing the written replies of her Government to questions 1–11 of the list of issues (CCPR/C/PHL/Q/4), she indicated, in respect of article 2 of the Convention, that the Supreme Court had upheld the constitutionality of the Human Security Act; that the bill prohibiting discrimination in employment, education and several other areas had been passed by the Senate and that other provisions to that effect were also contained in the Magna Carta of Women; that homosexuality was not considered a criminal offence under Philippine law; and that a bill was under review, as a matter of priority, to amend the Anti-Rape Law in order that a man found guilty of marital rape could no longer evade criminal penalties because he had been forgiven by his wife.
4. Regarding article 6 of the Convention, measures taken had led to a marked decline in the number of alleged cases of extrajudicial executions; a bill on enforced disappearances had been approved by the Senate and in the case of the Maguindanao massacre, 77 of the 96 accused had been charged. To combat maternal mortality, the State, in its annual budget, had allocated funds for the health of mothers, newborns and children, and sex education had been provided to prevent teenage pregnancy. A bill on responsible parenthood, which would allow couples to be fully informed of the whole range of contraceptives available, was currently under review in Congress.
5. In respect of articles 7, 9, 10 and 14 of the Covenant, 114 regional trial courts designated as family courts had decided on over 5,000 cases of violence against women between 2011 and August 2012. The State party denied the allegation of widespread torture and ill-treatment by law enforcement and military personnel against civilians. Lastly, it was fighting against prison overcrowding through various measures including release on bail and commutation of sentence based on good conduct.
6. Regarding article 8, she indicated that in the Philippines the fight against trafficking remained a priority, that a new strategic plan had been finalized in 2012 and that between 2005 and 2012 there had been 81 successful prosecutions of around 100 people for such acts.
7. In respect of articles 19 and 22 of the Covenant, the Supreme Court had decided to replace prison sentences with fines in cases of libel convictions, and the Government had made it a priority to resolve the cases of killings of media practitioners.
8. Regarding articles 2, 23, 24 and 26 of the Covenant, the Supreme Court had decided that low income couples could obtain free legal services to divorce. In addition, the Family Code had been amended to allow children born outside marriage to use the surname of their father; and a campaign was being led to ensure that all children were registered at birth.

9. **Mr. Iwasawa** said that it was a historic day for the Philippines as the Government had reached a preliminary peace deal with the main Muslim rebel group, ending a 40-year conflict. He invited the delegation to provide the terms of the agreement and to evaluate the impact it might have on the promotion and protection of human rights in the country.

10. Regarding question 1 of the list of issues, the State party had indicated in its written replies that it applied the doctrine of incorporation, but the Government had stated several times that the International Covenant on Civil and Political Rights and the Optional Protocol did not form part of national legislation. He would be grateful if the delegation could explain what the situation really was in that respect, indicate whether all the provisions of the Covenant were directly applicable by the courts, which remedies were available to persons claiming a violation of rights protected under the Covenant and whether the domestic courts had ever referred to the work of the Committee in interpreting the Covenant.

11. Regarding question 2 of the list, it would be useful to know what steps had been taken in order to implement the Committee's Views in cases where it had found a violation of the Covenant. The delegation might also comment on the information that in 9 out of the 12 individual communications concerning the State party, the remedy recommended by the Committee had not been approved and state whether there was a mechanism responsible for implementing the Committee's Views.

12. In respect of question 3 of the list, he asked how likely it was that the Senate bill regarding the Commission on Human Rights would be adopted and, if so, how the mandate and the independence of that institution would be strengthened. The delegation might also provide details on the investigational and prosecutorial powers of the Commission.

13. **Mr. Neuman**, with reference to question 4 of the list of issues, asked if the State party envisaged reforming the Human Security Act, given that the Commission on Human Rights of the Philippines itself deemed the definition of terrorist crimes in that Act to be too vague and that by authorizing police officers to arrest suspects without a warrant and to hold them for up to 72 hours, it exposed detainees to serious risks of ill-treatment.

14. The replies of the State party concerning question 5 of the list of issues confirmed that the comprehensive Anti-Discrimination Bill was still before Parliament. He asked when it was expected that the bill would be enacted. Furthermore, the State party stated in its written replies that homosexuality was not considered a criminal offence under the Revised Penal Code but the Committee had information indicating that another provision of the Code, punishing scandalous behaviour, could be invoked to arrest and prosecute persons on the grounds that homosexual behaviour was highly scandalous. He invited the delegation to comment on that information.

15. The State party's report and its written replies to question 6 of the list of issues showed that women were very much underrepresented in the public sector. What measures had been taken to remedy that situation and to improve women's access to positions of responsibility in the private sector? Furthermore, what specific steps was the State party taking to change patriarchal attitudes and stereotypes which curbed opportunities for women's employment?

16. The absence of statistics on the number of investigations carried out into cases of extrajudicial executions and enforced disappearances, on the types of penalties imposed and on any compensation awarded seemed to confirm that those cases rarely gave rise to an investigation. The Committee would be grateful for any updated information the delegation might have, particularly regarding the number of victims who had received compensation. Obstacles to effective investigations into extrajudicial executions and enforced disappearances attributed to the armed forces included the refusal of military personnel to collaborate with the police or with the Commission on Human Rights and threats and

intimidation against witnesses. It seemed that witnesses were not always covered by the Witness Protection Programme, the effectiveness of which was in any case disputable. Since a bill aimed at improving the programme was currently under review, it would be useful to know when it might be adopted. He would also be grateful if the delegation would provide information on the progress of the bill on enforced disappearance and indicate whether the State party intended to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Lastly, it seemed that the national mechanism for the prevention of extrajudicial executions, enforced disappearances and torture, established by law, had still not been implemented. When would it take effect, and what other measures was the State party taking to encourage the armed forces to collaborate in investigations into extrajudicial executions and enforced disappearances?

17. **Mr. O'Flaherty** said that the adoption of the Magna Carta of Women was undoubtedly very positive but it seemed that the text had not been implemented in practice. He wished to know what concrete steps the State party had taken to advance the rights of women in accordance with the commitments made under the Magna Carta. In addition, details would be appreciated of the project set up with the support of the Spanish Agency for International Development Cooperation to promote the implementation of the Magna Carta of Women. It was also important to know what steps were being taken to revise the Code of Muslim Personal Laws, certain provisions of which deprived women of rights under the Covenant, and whether the State party was considering a revision of the Anti-Rape Law, which did not protect women against marital rape. Since April 2012, vagrancy no longer constituted an offence, except where prostitution was concerned. He would be grateful if the delegation would explain the reasons for that exception, which, by exposing prostitutes to penalties, condemned them to working in secrecy, thereby increasing their vulnerability.

18. The Independent Commission against Private Armies in 2010 adopted several resolutions recommending very specific measures, particularly to monitor access to weapons by private armed groups and to prevent them from illegally using equipment belonging to the armed forces or the police. Had they been implemented? Was it true that the Commission's report had never been published and, if so, for what reasons? Presidential Decree No. 546, which authorized the use of paramilitary groups to support the armed forces, was still in force even though the President, during the electoral campaign, had undertaken to repeal it. He would be grateful if the delegation would explain how that decree was compatible with the State's commitment to disband private armed groups. The delegation might also indicate when the two bills to prohibit the activity of private armed groups and to order their disbandment, currently pending before the House of Representatives, would be adopted.

19. **Ms. Waterval** asked whether the state of emergency which had been declared on 24 November 2009 in the provinces in the south of the country, and which had remained in force because of violence related to private armed groups, could be lifted in the light of the peace agreement which had just been signed by the Government and the Muslim rebels. She also wished to know which rights had been restricted during the state of emergency.

20. Executive Order No. 003 issued by the city of Manila which had banned the use and supply of modern contraception and family planning services in health facilities funded by local authorities, had indeed been repealed, but it had been replaced by another order prohibiting the State from funding programmes related to birth control through artificial methods. Could the delegation comment on the subject? According to a study, over half of the 3.4 million pregnancies recorded each year in the Philippines were unwanted, and inadequate access to information on reproductive health was one of the major causes of early pregnancy. What measures had the State party taken to remedy the situation? A national summit on early pregnancy had been organized in September; it would be useful to

know what had been discussed and what the outcome of the discussions had been. According to the State party's written replies, the Reproductive Health Bill aimed to promote responsible parenthood and access to all family planning methods. Did those methods include modern contraception?

21. **Ms. Motoc** asked whether judges received specific training on the rights protected by the Covenant and if they referred to the Covenant in practice.

22. **Mr. Thelin** wished to know how the possession of firearms was regulated in the State party and what measures were taken to combat arms trafficking.

23. **The Chairperson** proposed briefly to suspend the meeting to allow the Philippine delegation to prepare its replies to the Committee members' questions.

The meeting was suspended at 4.25 p.m. and resumed at 4.40 p.m.

24. **Ms. De Lima** (Philippines) said that the framework peace agreement which had just been signed provided for the establishment of a committee to draft the Act for the creation of a new political body known as Bangsamoro, which would replace the current Autonomous Muslim Region of Mindanao. The framework agreement set out the basic principles of the future Act and guaranteed in particular the protection of fundamental rights, such as the right to life, the right to privacy, the right to freedom of expression, and freedom of religion and belief. Provisions regarding the terms of the distribution of powers between central and Bangsamoro authorities would be established in due course.

25. The bill to strengthen the structure and the mandate of the Commission on Human Rights had the full support of the Government. If it was adopted, the Commission would be empowered to investigate violations of economic, social and cultural rights, as well as civil and political rights, and would enjoy complete budgetary autonomy. It was, however, important to note that the Commission on Human Rights already fully conformed with the Paris Principles, as attested by its accreditation as a category A national human rights institution. The question of empowering the Commission to initiate prosecutions was controversial. Initiating prosecutions, a function that pertained to the executive power, was in fact incompatible with the Commission's mandate to independently monitor the State's fulfilment of its obligations with regard to human rights. In order to ensure that all human rights violations, including extrajudicial executions and enforced disappearances, were duly prosecuted, it would be preferable to strengthen the capacities of the prosecuting authorities, and efforts to that end were under way.

26. The President had instructed the national police and the armed forces to disband the private armed groups, in accordance with the recommendations of the Independent Commission against Private Armies. Private armed groups should not be confused with the paramilitary forces created under Decree No. 546 to assist the regular security forces during conflicts with communist activists and Muslim separatists. While those paramilitary forces might have committed violations in the past, even though such allegations would need to be substantiated, measures had since been taken to professionalize the paramilitary forces: recruitment criteria had been tightened, training improved and monitoring strengthened. Most of the bills mentioned by the Committee members were before the House of Representatives or the second Chamber of Congress.

27. The number of extrajudicial executions had considerably decreased since the visit in 2007 of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Efforts continued to be made to shed light on all the cases indicated. A manual on the collection of evidence, investigations and preparation of prosecution files in cases of extrajudicial executions had been drawn up with a view to improving the efficiency of investigations. It was not true that the Witness Protection Programme was inefficient. That mistaken impression stemmed perhaps from the absence of publicity owing to

confidentiality requirements imposed by security protection of the beneficiaries. Increasing numbers of witnesses availed themselves of the programme, including in highly publicized cases, such as those involving corruption, murder or electoral sabotage, which showed that it was reliable. Provisions allowing a change of identity could be added to the current services. The Ministry of Justice also wished to recruit specialized security staff for the implementation of the programme.

28. **Mr. Marquez** (Philippines) said that the state of emergency which had been declared by the President in Maguindanao, Cotabato City and Sultan Kudarat following the massacre of 57 people, including 32 journalists, had been lifted after seven days and that, in its Order of 20 March 2012, the Supreme Court had confirmed the constitutionality of the decree under which the state of emergency had been declared. The Covenant, which had been invoked in several court decisions, was an integral part of judges' training.

29. **Ms. De Lima** (Philippines) said that an inter-institutional working group was currently checking the statistics on extrajudicial executions, which had tended to differ considerably depending on the source. At her request, Mr. Libay provided detailed statistics concerning the cases of extrajudicial executions dealt with by Task Force *Usig* (Task Force Prosecution) under the national police.

30. **Ms. Villar** (Philippines) said that the 2009 Magna Carta of Women constituted the legal framework for the promotion of women's economic, social and cultural rights. Its implementing regulations had been adopted in September 2010. Since then, a share of the national budget was allocated to gender equality and to development, two objectives which public bodies were required to incorporate into their activities. A plan to implement the Magna Carta for 2012–2016 had also been adopted, and various monitoring mechanisms had been put in place at national and local levels. Furthermore, for three years, a pilot project by the national Commission on Women, financed with assistance from the Spanish Agency for International Development Cooperation, would facilitate the implementation of the Magna Carta and assess its impact. Its other objectives would include capacity-building and reproduction of service models promoting women's empowerment. The Magna Carta had been translated into local languages and information campaigns were conducted to give it publicity; training was also organized for the public and private sectors. Several laws would be reviewed in accordance with the Magna Carta, which would allow in particular the inequalities in the provisions on infidelity and rape to be removed.

31. **Ms. De Lima** (Philippines) said that women were more represented in positions of authority, and currently accounted for 37 per cent of positions in the judicial system, including that of President of the Supreme Court. They were also represented in the Senate and the Government. The Philippines was one of the few developing countries to have twice elected a woman President.

32. **Ms. Vigo** (Philippines) said that the Government gave priority attention to the problem of early pregnancy. A summit on the subject had been organized in September 2012 by the National Youth Commission, various public bodies and several NGOs in order to raise awareness among the population. More recently, at a meeting on the achievement of Millennium Development Goal 5 relating to the reduction of maternal mortality, attended by various public service departments concerned with health and development, it had been decided that an in-depth study into teenage pregnancy would be conducted. In order to reduce maternal mortality, the Department of Health had provided clinics in rural areas with modern equipment and qualified staff so that women could give birth in safety. Mobile units offered postnatal support, including in terms of breastfeeding and newborn care. Community health teams, comprising some 35,000 members throughout the country, had set up a contraceptive supply network. Lastly, information and awareness-raising messages were being broadcast in the media and on the Internet.

33. **Mr. Montenegro** (Philippines) said that the possession of firearms was strictly regulated. The authorization procedure included judicial, police and medical formalities. The possession of a firearm did not authorize its use away from the owner's home, which required another type of permit. Civilians could possess handguns only.

34. **Mr. Marquez** (Philippines) said that men and women were totally equal before the Constitution. Muslim women who submitted to sharia provisions did so by religious choice. The Revised Penal Code applied to all without discrimination. The "grave scandal" provision did not target only homosexuals; was the act itself that was punishable and not the sexual orientation.

35. **Mr. Lepatan** (Philippines) said that the Philippine culture was essentially matriarchal, as throughout all South-East Asia. The country had ranked eighth out of 135 in the Global Gender Gap Index of the World Economic Forum and was the only developing country in the region in the top 10. In certain areas, such as education and women's health, it came first.

36. **The Chairperson** thanked the delegation for its replies and invited Committee members who wished to ask further questions to do so.

37. **Mr. O'Flaherty** asked if Muslim women could opt out of the discriminatory sharia provisions to assert their rights under the Constitution. The fact that the crime of vagrancy had been decriminalized with the exception of prostitutes was discriminatory, regardless of the attitude to prostitution, since that group of persons was further marginalized as a result.

38. **Sir Nigel Rodley** asked which constitutional rights had not been taken into consideration in the peace agreement applicable to Mindanao.

39. **Mr. Iwasawa** asked once again for details on the incorporation of the provisions of the Covenant into domestic law.

40. **Mr. Thelin** asked about the application in practice of regulations on firearms. In order to measure the scale of the black market, the number of permits needed to be compared with the number of arms in circulation.

41. **Mr. Flinterman** said that the State party had not indicated whether it planned to revise the provisions of the Penal Code which banned abortion without exception. The total prohibition of abortion was a factor in the rising rate of maternal mortality. A number of human rights instruments considered that such a prohibition was incompatible with the protection of rights and required the provision of exceptions. The Government was committed to encouraging responsible parenthood and to promoting access for all to family planning, but it appeared doubtful whether such access was truly universal and, in particular, whether the poorest people could afford contraception, which was expensive.

42. **Mr. Salvioli** recalled that the State party was obliged to uphold the principle of non-discrimination. If sharia provisions were incompatible with the Covenant, the State party should bar their application, even where a woman had accepted them of her own free will.

43. **The Chairperson** said that the delegation would reply in the following meeting to the foregoing questions. She invited Committee members to address questions 12 to 18 of the list of issues.

44. **Mr. O'Flaherty** asked what schedule was planned for the establishment of family courts and what steps had been taken to familiarize judges of the regional courts of first instance with the details of family cases, since they would be dealing with such cases in the interim.

45. **Mr. Rivas Posada** recalled that the Committee needed specific data and statistics to appreciate what was happening in practice and to quantify the progress made in the fight

against torture. Details would also be useful on pretrial detention, which was widely used in the Philippines despite considerable prison overcrowding due to the excessive numbers of detainees. The State party indicated that around 12,000 persons had been released but did not specify whether the individuals concerned had completed their sentences, had been granted parole or had been released because their detention had been unjustified. In any event, pretrial detention should remain an exceptional measure, always well substantiated, and not exceeding the duration of the applicable sentence.

The meeting rose at 6 p.m.