



**International covenant  
on civil and  
political rights**

Distr.  
GENERAL

CCPR/C/SR.2138  
23 October 2003

Original: ENGLISH

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HUMAN RIGHTS COMMITTEE

Seventy-ninth session

SUMMARY RECORD OF THE 2138th MEETING

Held at the Palais Wilson, Geneva,  
on Monday, 20 October 2003, at 3 p.m.

Chairperson: Mr. AMOR

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The meeting was called to order at 3 p.m.

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

Second periodic report of the Philippines (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 took places at the Committee table.
2. Ms. GUTIERREZ (Philippines) said that the Covenant had entered into force for the Philippines on 23 January 1987. She reaffirmed her country's commitment to human rights and democracy, and paid tribute to those who had given their lives in its long and bitter struggle for independence. The capacity of her Government to promote and protect civil and political rights had been strengthened considerably during the period covered by the combined second and third periodic report (April 1989 to February 2001). While poverty alleviation had remained the highest priority, the Government had also focused on national reconciliation and the consolidation of democracy. It was fully committed to cooperating with human rights organizations and promoting a free and responsible press. Its human rights strategy included training programmes for law enforcement officials, and an extensive public awareness campaign.
3. The CHAIRPERSON invited the delegation to reply to questions 1 to 20 of the list of issues (CCPR/C/79/L/PHL).
4. Ms. GUTIERREZ (Philippines), replying to question 1, said that, in the case of People v. Mercado, the appellants had asserted that the reintroduction of the death penalty constituted a violation of the Covenant. However, the Supreme Court had ruled that capital punishment was a legitimate limitation on the right to life, pursuant to article 6 of the Covenant, provided it was used only for the most serious offences. The Philippines had not in fact ratified the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty. Republic Act 7438 and Republic Act 7309, concerning the rights of detainees and benefits accruing to the victims of unjust imprisonment, incorporated the relevant principles of the Covenant.
5. Referring to question 2, she said that State agents were bound by the provisions of the Covenant. Moreover, the Philippine Commission on Human Rights had been established to investigate allegations of human rights abuses committed by State agents or other armed groups, and domestic law provided for remedial measures in relation to such abuses. Aggrieved parties were entitled to bring separate civil suits for damages, without prejudice to prosecution of the violators under criminal law. Crimes against the fundamental laws of State, such as arbitrary detention, searching domiciles without a warrant and disruption of peaceful meetings, were punishable under articles 124 to 131 of the revised Penal Code.
6. The Philippine Commission on Human Rights (question 3) had been established to investigate human rights abuses by State agents during the martial-law period, and was free to conduct inquiries without undue political pressure. It was an independent constitutional body, and its recommendations were given due weight and credence by the Philippine authorities.

7. Victims of human rights abuses (question 4) could seek remedies through the Commission on Human Rights. On the basis of recommendations by the Commission, the Department of Justice was mandated to conduct preliminary investigations and file the appropriate charges. Victims could also seek damages for violations of their constitutional rights and liberties, such as illegal confinement, under article 32 of the Civil Code.

8. Recognizing its international obligations, her Government seriously considered all requests for interim measures of protection from the Committee (question 5). However, implementation of its commitments, particularly in relation to domestic law, was strictly the prerogative of the State party.

9. Referring to question 6, she said that adequate human rights protection was afforded to suspects in terrorist-related investigations, so that no one was deprived of life, liberty or property without due process of law. Constitutional freedoms were guaranteed at all times, and the privilege of habeas corpus could only be removed for a period not exceeding 60 days following invasion or rebellion or if public safety so required. Counter-terrorism legislation currently before Congress contained provisions to protect civil and political rights even in the context of the war against terrorism.

10. The Constitution provided that no person should be denied the equal protection of the law, and prohibited all forms of racial discrimination (question 7). Pursuant to article 3 of the Labour Code, the Government also had a responsibility to ensure equal employment opportunities for all, regardless of sex, race or creed.

11. Progress had been made in securing better participation of women in political life, and many women occupied important positions in government (question 8). Statistics concerning the participation of women in public life would be submitted at a later date.

12. Republic Act 7659 provided for the imposition of the death penalty (question 9) for the following heinous crimes: treason, rape, kidnapping, serious illegal detention, robbery with violence, intimidation, destructive arson, plunder, the importation, delivery, sale, possession or use of prohibited drugs, murder, piracy, mutiny on the high seas or in Philippine waters, qualified bribery, parricide and infanticide. The reintroduction of the death penalty was justified by the recurrence of rampant criminality, and served as a powerful deterrent. In accordance with article 3 of the Constitution, it was only applicable to the most heinous, odious and perverse crimes, which were an outrage to the common standards of decency and morality in a just and civilized society. The delegation would provide details of crimes that carried a mandatory or possible death sentence (question 10) at a later stage in the discussion.

13. Replying to question 11, she said that, as of 1 October 2003, a total of 979 death sentences had been handed down, of which 145 had been upheld by the Supreme Court, and 834 were still under review. There had been 7 executions, and 145 prisoners were awaiting execution. However, a moratorium had been declared on application of the death penalty for offences other than drug-related crime, and debate over its abolition continued in Congress.

14. Several minors had been sentenced to death (question 12) because their age had not been determined at the time of their trial. Of those convicted, 20 had been released subsequently, and 7 had been transferred to medium-security prisons, pending release. The imposition of the death penalty on minors was prohibited by law.

15. The Government was still investigating all cases of extrajudicial killings (question 13), and was not in a position to provide information concerning the assassination of two human rights defenders and the abduction of two others in April 2003. If the Committee was referring to the case of Eden Marcellana, which had been brought before the courts, her delegation could provide further details.

16. A non-governmental organization (NGO) which served as a member of the Special Committee for the Protection of Children had reported the killings of 29 suspected criminals, including youth gang members and street children in Davao (question 14). The Special Committee had evaluated the witnesses to determine whether they qualified under the witness protection programme, and the case had been referred to the Commission on Human Rights. However, there was still insufficient evidence for the appropriate charges to be filed in court. The lack of cooperation of vital witnesses, for fear of reprisals, and the lack of popular support for the victims had impeded the collection of such evidence.

17. Neither vigilante groups nor extrajudicial killings were permitted by Philippine law (question 15). It was unclear how many vigilante groups existed, in view of the clandestine nature of their activities.

18. A draft law on the punishment of acts of torture (question 16) was on its second reading in Congress. Torture was defined therein as any act by which severe pain or suffering, whether physical, mental or pharmacological, was intentionally inflicted by, or at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity, for such purposes as obtaining information or a confession, punishment, intimidation or coercion.

19. The perpetrators of acts of torture, or anyone else present during the perpetration of such acts, were liable to criminal prosecution. An order from a superior officer could not be invoked as justification for torture. Torture that resulted in the death of any person would be treated as murder. As protection against ill-treatment, detainees were subject to medical examinations and visits by representatives of the Commission on Human Rights. The Constitution provided that anyone arrested for an alleged offence had the right to remain silent and to be accompanied by appropriate legal counsel, preferably of his or her own choosing. Any confession obtained through torture or ill-treatment was deemed to be null and void.

20. The Government was taking steps to update its list of official places of detention and to compile a database of detainees, which would be accessible to the bar associations and the general public (question 17).

21. Evidence obtained from a detainee in an unofficial place of detention was presumed to have been obtained by irregular means (question 18). Where there were indications that any evidence had been obtained through the use of force, intimidation, threats, undue pressure or trickery, it was deemed inadmissible in court. Under Republic Act 7438, any extrajudicial

confession made by a person arrested, detained or under custodial investigation should be in writing and signed by that person in the presence of counsel or, in the latter's absence upon a valid waiver, in the presence of parents, elder brothers or sisters, or a spouse, municipal major, municipal judge, district school supervisor, priest or minister of the church, depending on the wishes of the person concerned. Otherwise extrajudicial confessions were inadmissible as evidence in any proceedings. Moreover, any waiver made by a person arrested or detained under article 125 of the revised Penal Code or under custodial investigation was null and void unless made in writing and signed in the presence of counsel.

22. Turning to question 19, she said that a pending bill in Congress, House Bill No. 2433 entitled "Act Enhancing the Administration of Juvenile Justice", established the Office of Juvenile Justice and Delinquency Prevention under the Department of Justice and a Juvenile Training Centre at the Bureau of Corrections. Rules and regulations governing the establishment of detention centres in coordination with the Department of the Interior and Local Government had been issued to local government units.

23. Responding to question 20, she said that the Bureau of Corrections had promulgated an operating manual to ensure uniform and humane treatment of prisoners. It included provisions for bedding and food to ensure that they complied with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

24. Mr. SHEARER said he regretted that 13 years had elapsed since the State party's submission of its initial report. At the same time, he welcomed the Philippine authorities' openness to the work of both local and international NGOs, which had provided the Committee with a wide range of supplementary information.

25. The delegation's answers to questions 1 to 20 of the list of issues had not been sufficiently detailed. In particular, the Committee would have liked to know more about specific measures to counteract impunity for human rights violations. It would appreciate a description, backed by statistics if possible, of how the legislation mentioned by the delegation was implemented in practice.

26. The delegation's response to question 5 concerning implementation of the Committee's Views under the Optional Protocol on the case of Carpo et al. v. The Philippines had been extremely brief and somewhat dismissive. He asked for further explanation of the Government's reaction to the Views.

27. With regard to question 13, a number of NGOs and other sources had informed the Committee that extrajudicial killings were a major problem in the Philippines. According to the delegation, the Government was still "consolidating" information on the subject so that it could not yet be made public. The case referred to was indeed that of the two human rights defenders, Eden Marcellana and Eddie Guamanoy, who had been abducted by masked men and shot dead in April 2003 on returning from a human rights fact-finding mission. He was unsure what the delegation meant when it stated that the case had been "filed in court". Had the collection of evidence been impeded by intimidation or fear of retaliation? He wondered what kind of obstacles could be impeding the attainment of justice in respect of such a serious violation of human rights.

28. The delegation had referred to a “lack of popular support” for the victims of the killings mentioned in question 14. If the local population did not support vigorous action by the authorities against extrajudicial executions or ill-treatment in those cases, was it because of the victims’ political associations, their ethnicity, their religion or some other factor?

29. On question 15, the State party had said it was unable to verify how many vigilante groups were currently operating. He asked the delegation to explain the Government’s apparent inability to take vigorous action against groups that so clearly violated not only Philippine law but also the Covenant.

30. Mr. RIVAS POSADA said that the delay in submission of the second periodic report of the Philippines made it more difficult for the Committee to fulfil its human rights monitoring role. Moreover, the State party had been unable to benefit from an ongoing dialogue with the Committee. The delegation had provided excessively detailed information on the institutional, constitutional and legislative situation in the Philippines and insufficient information about results achieved in practice. He enquired about the rank of the Covenant in the constitutional and legal hierarchy of the Philippines. What happened where a provision of the Covenant was incompatible with domestic legislation? The Committee was particularly interested in hearing about practical measures to ensure that public officials did not enjoy impunity for human rights violations and that victims of such violations were compensated, as required by the Covenant.

31. How did the functions of the Philippine Commission on Human Rights set up in 1987 differ in practice from those of the Presidential Committee on Human Rights set up shortly afterwards? He was particularly interested in hearing about their respective investigative powers and their authority to institute legal proceedings in response to reports of human rights violations.

32. The delegation had mentioned provisions of the Civil Code recognizing the right of victims of violations to pecuniary or economic compensation. However, it had not provided a full picture of the compensation system. It was unclear whether the mere acknowledgement by a judicial body that a violation of a right had occurred was a sufficient ground for obtaining compensation or whether additional judicial or administrative proceedings were necessary.

33. Mr. SCHEININ commended the self-critical approach adopted in the State party but regretted that the delegation’s answers to the questions in the list of issues had been somewhat laconic. He also commended the Philippines for its ratification of the Optional Protocol, permitting an individual right of complaint which was not common in the region.

34. With regard to question 5 of the list of issues, the delegation had emphasized the principle of pacta sunt servanda. While he agreed that the State party must comply in good faith with its obligations under international law, he was troubled by the reference to its prerogative in terms of enforcement of domestic law. In the case of individual complaints, the only way to comply with its international obligations was to give the Committee time to conclude its deliberations without taking such an irreversible step as execution of the alleged victim, as had occurred in three cases. According to NGO sources, there were rumours that other persons who had petitioned the Committee were scheduled for execution. He asked the delegation to clarify whether the State party was committed to refraining from executing a person whose case was pending under the Committee’s individual complaints procedure.

35. In the light of the reports submitted by the Philippines to the Counter-Terrorism Committee of the Security Council, he was unsure whether certain counter-terrorism measures taken by the State party were compatible with the Covenant. In the second report, for example, it had listed by name certain individuals classified as terrorists who were currently detained pending trial. How could that approach be reconciled with the presumption of innocence and the guarantee of a fair trial? Both reports stated that there was no Philippine law defining terrorism but the Committee had heard from other sources that such a bill was pending before Congress and would like to ensure that the definition was not unduly vague. In some countries the crime of terrorism attracted heavy penalties but did not include all necessary elements of crime. The principle of legality - a non-derogable right under the Covenant - was thus compromised. He wished to be assured that the Philippine definition referred to terrorist intent only in combination with an ordinary crime and not independently. He understood from external sources that the proposed penalty for the crime of terrorism was life imprisonment but that the death penalty was also under discussion.

36. With regard to requests for extradition, he asked whether the rule of non-refoulement was absolute in the Philippines, so that nobody could be deported if they were at risk of torture or other forms of ill-treatment.

37. The Philippines had informed the Counter-Terrorism Committee of various measures regarding exchanges of information, including the communication of passenger lists. He asked what human rights guarantees were attached to such cooperation when the country concerned had not ratified the Covenant or the United Nations Convention against Torture.

38. The delegation had cited a number of political or domestic-law justifications for the reintroduction of the death penalty. What interested the Committee was the justification under international law. The correct interpretation of article 6 of the Covenant was that action to abolish the death penalty could not be reversed. Capital punishment was reserved for States parties that had not abolished it. In that connection, he asked whether any crime had still been punishable by the death penalty prior to its reinsertion in the Penal Code.

39. Although the delegation had not yet provided the figures requested in question 10, he had heard from other sources that 46 crimes carried the death penalty and that the death penalty was mandatory in the case of 25 of those crimes. The Committee had found that mandatory capital punishment, where a court was left with no other option, was an arbitrary deprivation of life within the meaning of article 6 (1) of the Covenant. It had also interpreted "most serious crimes" in article 6 as referring to a narrow category of crimes, usually involving violence against a person leading to or intended to lead to loss of life. The list of crimes carrying the death penalty in the Philippines was far broader than that interpretation. He asked the delegation to elaborate on the concept of a "heinous" crime under domestic law and of "most serious crimes" under the Covenant.

40. Mr. ANDO said that the long absence of a dialogue with the Philippines had been a major handicap for the Committee. He agreed with other speakers that the enumeration of legal and administrative provisions in the report should be supplemented by details concerning implementation.

41. With regard to question 7 of the list of issues, he enquired about the definition of race in the Philippines as a ground for prohibiting discrimination. How could a person claim that discrimination on grounds of race had occurred and what procedures were in place to ascertain whether the claim was justified? Where it was found that a claim was justified, what concrete remedies were available? Referring to the Committee's jurisprudence, he said that article 26 of the Covenant was deemed to cover not only civil and political rights but all public acts, whether judicial or administrative, including those relating to social and economic rights. He asked whether protection in the Philippines extended to all categories of rights.

42. Article 3 of the Covenant, which prohibited gender discrimination, covered a wide range of issues relating not only to legal provisions but also to education and awareness. He wished to know what kind of awareness programmes existed at the primary, secondary and higher levels of education and what kind of training was provided to ensure that schoolteachers, law enforcement officials and judges did not violate article 3.

43. Mr. KHALIL, referring to paragraph 597 of the report, asked whether the delegation could explain the discrepancy between the proposed new legislation on torture and actual practice. There were persistent reports of delays in effective investigation of cases, particularly those involving suspected insurgents, and of a climate of impunity with regard to ill-treatment of detainees during custodial investigation.

44. In connection with paragraph 625, he said secret places of detention still existed, despite the constitutional prohibition, and he wondered whether the proposed legislation provided for their abolition. Was there a legal requirement to keep records of arrest and detention, and if so, were such records available to directly interested parties?

45. Referring to paragraph 943, he said that, as one of the first States parties to the Convention on the Rights of the Child, the Philippines had introduced a wide range of legislation to protect children in conflict with the law. Practice had not, however, kept pace with the legislation: there were still reports of ill-treatment of minors by officials and of minors being held in the same cells as adults.

46. Street children were particularly at risk. They were sometimes beaten and handcuffed on arrest and many were subjected to lengthy pre-trial detention, with delays in processing cases. He wondered whether they were entitled to legal counsel. The problem of street children in general perhaps called for closer State supervision and support for NGOs working with children.

47. According to the report, children appearing in court enjoyed certain special rights, but instituting juvenile courts would surely help reduce the number of children held in overcrowded prisons. He wondered whether the Philippines was thinking of doing so.

48. Mr. BHAGWATI said it was the manner in which legislation was applied in practice that impacted on ordinary people's welfare, and he would have liked more details concerning implementation. Referring to paragraph 371 of the report, he asked what the composition of the Judicial Academy was. How were its members appointed, did they receive any practical training and to whom were they answerable?

49. With regard to the Philippine Commission on Human Rights, he said the report gave no specific information on the number of members, how they were appointed, whether they were removable and what their functions were. He wondered how many violations the Commission had investigated and with what results. To what extent were NGOs involved in the Commission's work? He would also like to know whether draft legislation was put to the Commission in order to check for potential human rights violations. Lastly, he asked how many recommendations the Commission had made and how many of those had been implemented.

50. The provisions of the Covenant had been incorporated into domestic law. He wondered, however, whether any of the rights protected under the Covenant had been directly invoked or enforced in court judgements. Were violations of those rights punishable under the law? With regard to the State party's prerogative to accept the Committee's recommendations or not, he would like to know whether the Committee's recommendation in the specific case mentioned in question 5 of the list of issues had in fact been followed, and if not, why not.

51. Mr. YALDEN said that, notwithstanding the volume of the report, there were regrettable omissions. It was not sufficient, for example, merely to make reference to the State party's reports to other treaty-monitoring bodies, particularly as in some cases they had been submitted several years previously.

52. The report dealt with the issue of racial discrimination but made no mention of discrimination on other grounds such as gender, disability or religion. He wondered whether the Philippine Commission on Human Rights had jurisdiction to deal with complaints of discrimination. How were such complaints made and dealt with? Lastly, referring to paragraph 467 of the report, he wondered what progress had been made with the legislation on gay rights.

53. Ms. CHANET said one major question addressed at the time of the Committee's consideration of the initial report of the Philippines had been the issue of paramilitary forces, militias and vigilantes. The second report revisited the issue, albeit rather briefly, and there was a lack of detail concerning the role and powers of the various military and paramilitary forces. She wondered what legal provisions governed the army's use of paramilitary forces and whether the Government had simply accepted the military's denial of the allegations of human rights violations mentioned in paragraph 547 without instituting any commission of inquiry.

54. The Committee had been informed during its consideration of the initial report that the Philippine Commission on Human Rights was competent to deal with violations committed by the armed forces, which would make it the strongest national human rights institution in the world. It was still unclear, however, how such violations were brought to the Commission's attention, so she would appreciate more information on the subject.

55. She agreed with her colleagues' comments concerning the reintroduction of the death penalty, and found it difficult to tell from the report whether that penalty was imposed only for the most serious crimes, in accordance with article 6 of the Covenant. The plethora of amended legislation referred to in paragraph 508, for example, was confusing. She wondered what definition of torture the State party applied and what jurisdictions were competent to deal with torture cases.

56. Information concerning the situation of children in the Philippines was alarming, particularly in the light of article 10 of the Covenant. What was the minimum age at which a child could be arrested, and how was that age determined, if not on appearance alone? There were apparently seven children currently on death row, which was difficult to reconcile with the fact that, under the law, the death penalty could not be imposed on minors.

57. Mr. KÄLIN said he shared Mr. Scheinin's concern at the delegation's reply to question 5 of the list of issues. He was not sure how to interpret the Government's position given the comments of the Supreme Court in its ruling on the Echegaray case, to the effect that the Philippines could not "be deemed irrevocably bound by the said Covenant and Protocol, considering that [those] agreements [had] only reached the committee level". Did the Government share that opinion? If so, on what basis did it deal with the Committee?

58. There appeared to be a certain amount of confusion concerning the State party's obligations: on the one hand, there was no doubt that the Philippines was fully bound by the Covenant and the Optional Protocol, which were contractual obligations vis-à-vis all the other States parties; however, the principle of pacta sunt servanda should be distinguished from the issue of the extent to which the Committee's Views in a given case were legally binding. Strictly speaking, its recommendations were not legally binding, but at the same time the States parties had elected the members of the Committee and entrusted them with the task of supervising implementation of the Covenant. It was in that context that the Committee pronounced its Views and recommended interim measures of protection, *inter alia*.

59. He would like to know, therefore, how he should interpret the delegation's emphasis on the State party's prerogative. Did it imply, for example, that there was no need to take account of the Committee's Views when replying to follow-up questions to the Government? Or did it mean that, in the Government's opinion, recommendations for interim measures of protection were indeed simply recommendations? In fact such recommendations - unlike the Committee's Views on a given case - did not address the question whether or not a human rights violation had been committed, but reflected the Committee's insistence on the contractual obligation undertaken by the State party to let the Committee consider cases under the first Optional Protocol. He would welcome clarification of the State party's position concerning the content of the duty to cooperate with the Committee.

60. Mr. GLELE AHANHANZO said he would have appreciated some illustrations of the effect of legislation in practice. Many references were made in the report to amendments to legislation, but neither the original legislation nor the specific content of the amendments was explained. It was therefore difficult to tell whether developments in legislation implied movement towards greater respect for the Covenant. In particular, he requested concrete examples of implementation of the measures mentioned in paragraphs 401 to 405 of the report.

61. Referring to paragraph 406, he wondered what developments had taken place with regard to human rights education since 1994. What was the content of human rights education and what percentage of the population actually benefited? He wondered which of the Philippines' eight main languages were used as vehicles for human rights education, and in which regions. Lastly, he would like to know what real impact human rights education had had on levels of police violence.

62. He asked whether there had been any evaluations of the work of the Philippine Commission on Human Rights. He would like to know what impact its activities had had on human rights awareness among the public at large and on the functioning of State institutions. Documentation on that point would be much appreciated.

63. Mr. LALLAH said a central issue was the Government's attitude to its obligations under the Covenant, and particularly under article 2. Like other colleagues, he had been somewhat disturbed to learn of the attitude adopted by the courts in the various cases mentioned.

64. He expressed concern that the judicial authorities were not properly apprised of the provisions of the Covenant. For example, the Supreme Court had decided that the Philippines could not be deemed to be irrevocably bound by the Covenant and the Optional Protocol "considering that those agreements had reached only the committee level". He wondered what other level there could be in terms of the implementation of the Covenant. All State authorities, whether legislative, executive or judicial, had a responsibility to implement the obligations undertaken by the Government. The role of the Committee was to monitor the actions of those authorities and indicate areas of concern. The delegation's response to the Committee's comments in that regard had not been satisfactory; it went without saying that States parties themselves were primarily responsible for implementing the provisions of the Covenant and the Optional Protocol.

65. Any efforts to reintroduce the death penalty were in violation of the Covenant. Under no circumstances did article 6 (2) of the Covenant constitute a derogation from article 6 (1). Conversely, as indicated in general comment No. 6, all measures to abolish the death penalty were considered as progress in the enjoyment of the right to life.

66. He was concerned about the Government's discouraging attitude towards NGOs working in the field of human rights in the Philippines. According to reports, a representative of one such organization had faced more than 50 charges before the courts in connection with his efforts to promote and protect human rights, but he had never been convicted. The Government should be more supportive of the efforts by NGOs to implement the provisions of the international agreements to which the Philippines was a party.

67. By ratifying the Optional Protocol, the Philippines had expressly recognized the competence of the Human Rights Committee to receive and consider communications from individuals who maintained that their civil and political rights had been violated. One such individual, Mr. Piandong, had exercised his right under the Optional Protocol to bring his case before the Committee. If he was executed before the Committee had the opportunity to consider his case, the Government of the Philippines would be sending out a clear signal that it did not take its obligations under the Optional Protocol seriously.

68. He wished to know more about the role of the Philippine Human Rights Commission, particularly as there were a number of cases of human rights violations in which it seemed that the Commission could have intervened but had not done so. One such case had remained unresolved for 20 years. It was unacceptable for human rights violations to go unpunished for such a long time.

69. Sir Nigel RODLEY noted with regret that the delegation had been unable to provide concrete examples of specific measures that had been taken to fight impunity for violations of the Covenant committed by State agents, and had failed to describe the extent to which offences had been investigated and offenders prosecuted and punished. It was equally disappointing that the delegation had been unable to provide information about cases of extrajudicial killings.

70. On 18 May 1995, 11 persons had allegedly been killed in cold blood on Commonwealth Avenue, Quezon City, while in the custody of law enforcement officials. At the head of the list of those implicated in that crime had been Chief Superintendent Panfilo Lacson. It was alarming that, despite the substantial evidence pointing to his involvement, Lacson had never been found guilty and, moreover, had become a senator. A number of legal measures had been taken on behalf of the accused to prevent any kind of judicial action against them. Furthermore, it was alleged that key witnesses to the crime had been driven out of the country or intimidated into withdrawing their statements. Further information should be provided about the current status of the case. He would be interested in knowing, in particular, whether there had been any formal court hearings or indictments against the persons in question, and whether any measures had been taken in response to other extrajudicial executions alleged to have been committed by the security forces. He would also like to know on what grounds it had been decided that deterrence was a serious justification for reintroduction of the death penalty.

71. One of the bills to criminalize torture that were currently being considered by Parliament appeared to contain a very narrow definition of torture and referred only to acts by which pain or suffering was intentionally inflicted on a person for such purposes as obtaining information or a confession. He wondered why the definition provided in that bill did not reflect that contained in the Convention against Torture. He would be interested in knowing how long it would take for the legislation to pass through Parliament and whether the issue was receiving priority attention.

72. According to reports, a confession in the Philippines was inadmissible only if it was shown to have been obtained by improper means. Furthermore, it appeared that there was a presumption that statements made to the police had not been coerced. It seemed that the burden was on the accused to prove that he or she had not been tortured. He wished to know whether the delegation considered it appropriate to place such a burden on a person who was in the custody of the security forces.

73. Ms. GUTIERREZ (Philippines) said that her Government was negotiating mutual legal assistance treaties with receiving States to protect trafficked Philippine women and children. Furthermore, it had developed a set of implementing regulations in connection with the Anti-Trafficking in Persons Act of 2003. All government departments and agencies working in the field of women's and children's rights were required to institute information, education and advocacy campaigns in order to raise awareness of the adverse effects of trafficking in persons. Under the new legislation, a set of guidelines had been established relating to the interception, arrest and investigation of traffickers, providing for the immediate filing of criminal charges against persons caught in the act of trafficking persons in the Philippines. In addition, trafficked persons were entitled to legal protection and immunity from prosecution. The Anti-Illegal Recruitment Branch of the Philippine Overseas Employment Association (POEA) had incorporated a module on trafficking into its pre-employment seminars. The question was also being addressed at the regional level in a campaign targeting law enforcement officials.

74. As of September 2003, some 3,000 cases of sexual exploitation of children and child trafficking had been reported in accordance with the Special Protection of Children Against Abuse, Exploitation and Discrimination Act and its implementing regulations.

75. Under the Constitution, no arrest could be made without a warrant issued by a judge. The exceptions to that rule were set out in the Rules of Criminal Procedure, according to which a police officer without a warrant was authorized to arrest a person who had committed, was actually committing, or was attempting to commit an offence in his presence or when an offence had just been committed and the police officer had personal knowledge of the facts. That provision did not run counter to article 9 (1) of the Covenant because, in such cases, the police officer had more than sufficient evidence to suspect that the person was guilty of the offence. Moreover, it would not be practical for the police officer to secure an arrest warrant from the court as the suspect would no doubt flee and the situation would render law enforcement ineffective. In all cases, arresting officers were obliged to inform the arrested persons of the reason for their arrest and apprise them of their constitutional rights.

76. Under existing Philippine laws, an accused person enjoyed the right to a speedy trial and also the speedy disposition of his or her case. To further ensure that right, an Act to Ensure a Speedy Trial of All Criminal Cases had been adopted in 1998. The principal mandate of the Public Attorney's Office within the Department of Justice was to provide legal aid to poor litigants. Between 1998 and 2002, the Office had granted legal aid in almost 800,000 cases. In the private sector, the Integrated Bar of the Philippines and a number of NGOs provided free legal assistance to those in need.

77. The Philippine Constitution provided that no person should be deprived of his or her liberty or property without due process of law. In all cases involving the deportation of undesirable aliens, due process was observed. Administrative hearings were conducted whereby such aliens were afforded every opportunity to defend themselves. Under Philippine law, summary deportation was authorized for overstaying aliens and in cases involving the expiration or cancellation of passports.

78. All civilians had a constitutional guarantee to the liberty of abode and travel and could therefore not normally be displaced. However, that guarantee did not apply during armed conflicts, when displacements were sometimes necessary in order to protect the safety of civilians. The Department of Social Welfare and Development and the Department of National Defence were responsible for providing food, clothing and shelter to displaced communities during an armed conflict. The Mindanao Coordinating Council had been established in order to eliminate the gap between national policies on displacement issues and actual implementation on the ground.

79. Her Government was not aware of any zoning operations conducted by the military against indigenous populations. Such operations were a violation of the right to liberty guaranteed by the Constitution. Without a search warrant, no member of the armed forces had the right to enter and search a person's home.

80. The imposition of a curfew for minors was considered by the Government to be a reasonable way of protecting them from being victimized by criminal elements in the streets. Through the exercise of its police powers, the Government could regulate the movement of minors during certain hours for reasons of public safety.

81. Although there were a number of bills relating to the legalization of divorce pending in Congress, the question was still being debated. Existing laws allowed only the annulment of a marriage and legal separation.

82. Under the Family Code, any child born out of wedlock was considered to be illegitimate. In most cases, illegitimate children enjoyed the same rights as legitimate ones. Steps had been taken to amend the provisions of the Civil Code so as to improve the inheritance rights of illegitimate children under certain conditions. A bill allowing children born out of wedlock to use their father's surname had been approved on second reading in August 2003. Under the new legislation, adopted children could inherit from their adoptive parents.

83. The Omnibus Rules Implementing the Labour Code had been promulgated in order to ensure that employers properly implemented the provisions of the Labour Code that set the minimum age for the employment of children, working hours and security at work. Children below the age of 15 could work only under the direct responsibility of their parents or guardians in a non-hazardous undertaking where the work did not in any way interfere with their schooling. Young persons between 15 and 18 years old could be employed in any non-hazardous work. Employers could not discriminate against such persons with regard to the terms and conditions of their employment on account of their age.

84. The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act provided that every child had the right to protection against exploitation, improper influences, hazards and other conditions or circumstances prejudicial to his or her physical, mental, emotional, social and moral development. For example, any child employed in the entertainment industry must give his or her express consent before a contract was signed and no children were allowed to be used in advertisements for alcoholic beverages or tobacco. The Special Committee for the Protection of Children monitored implementation of the child labour legislation in force.

The meeting rose at 6 p.m.