



## STATE PARTY EXAMINATION OF THE PHILIPPINES'S THIRD AND FOURTH PERIODIC REPORT

52<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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*The Philippines ratified the Convention on the Rights of the Child (CRC) on 21 August 1990. On 15 September 2009, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic report of the Philippines. It was last examined on 18 May 2005.*

### Opening Comments

The delegation of the Philippines was led by H.E. Esperanza I. Cabral, the Minister of the Department of Social Welfare and Development. She was supported by a large delegation consisting of representatives of the Department of Justice, Department of Labour and Employment, Department of Interior and Local Government, Department of Foreign Affairs, Department of Health, Ministry, the Council for the Welfare of Children, the National Commission on Indigenous Peoples, the Philippine National Police and the Permanent Mission in Geneva.<sup>1</sup>

H.E. Cabral expressed her appreciation for the role of the Committee in promoting and protecting the rights of the child. She highlighted some of the main accomplishments such as entering into force of several laws on child protection since the examination of the Philippines State party report in 2005. The delegation mentioned their success in addressing the issue of birth registration; listed new programmes and policies implemented recently within the framework of the Millennium Development Goals (MDG). The implementation of these programmes, especially the one on the MDG, demonstrated the State party's commitment to eradicate poverty, achieve universal primary education, reduce child mortality rate, improve maternal health and promote gender equality. H.E. Cabral said that her country was the first in East Asia to adopt a Strategic Framework and a Plan of Action to End

<sup>1</sup> More information about the composition of the delegation can be found at <http://www2.ohchr.org/english/bodies/crc/crcs52.htm>.

Violence against Children, for which a national network had been established. She mentioned that the Anti-Trafficking in Persons act established institutionalised mechanisms for trafficked persons and penalties for violations; and the Anti-Child Labour Act had amended the anti-child law provisions. The same law “had given way to advocacy measures” addressing the worse forms of child labour and giving child an opportunity to study. In 2004 an act allowing “illegitimate” children's use of the surname of their father, the Newborn Screening Act of 2004 was enacted. It ensured that parents recognised the responsibility to protect their children. The Juvenile Justice and Welfare Act of 2006 prohibited torture, introduced restorative justice, exempted children below 15 years of age from criminal liability. 1997 Act on Indigenous Peoples (IPs) was adopted as a landmark legislation that recognized the rights of IPs. The delineation of 145 Certificate of Ancestral Domain Title (CADT) covering over 3 million hectares with 756,888 IP beneficiaries followed the adoption of this act. The years of 2007-09 were declared to be years of legislative, policy and budgetary allocation for children, with 3 other laws being enacted. The Magna Carta for children with disabilities together with the Magna Carta for women which had provision on the prohibition of discrimination of all forms towards girl children were enacted recently. H.E Cabral underlined that the country had to improve the implementation of laws and child related programmes. She said that additional questions in the list of issues had been helpful in updating the information covering the period of 2007-2009. The opening remarks were well received by the Committee and were perceived as a comprehensive update on the situation.

The Country Rapporteur, Mr Citarella, welcomed the number of actions taken by the State party since its last examination in 2005. He noted that the periodic report was extremely self-critical. Despite the progress achieved, a wide range of issues worried him, such as the poverty threshold, the low level of school enrolment, the lack of resources and the poor definition of the child in the legislation. He wanted to know what the process of drafting the report had been. The delegation answered that different agencies were consulted in the process of drafting the report.

The Co-Rapporteur, Mr Koompraphant, welcomed the delegation and asked whether there were enough resources to implement the Child Protection Act in the Philippines and whether there were services available for the protection of child witnesses. The delegation explained that there were manuals and protocols for professionals dealing with child victims and that the best interest of the child was always taken into account in these procedures.

## **General Measures of Implementation**

### ***Implementation***

The Committee wondered whether the CRC was directly applicable in the State party's legislation. The delegation explained that once ratified, all international treaties, including the CRC were incorporated into the domestic legislation. The Committee members asked whether the Convention had been invoked before the courts and what happened when there was a conflict between national laws and the provisions of the Convention. The delegation answered that the Convention was not invoked before courts as much as the State party would wish. The delegation added that there was no conflict of interest between international treaties and domestic law as provisions of treaties were considered when a law was promulgated.

## **Coordination and Monitoring**

The Committee enquired about the role of two different human rights bodies: the National Human Rights Commission and the Presidential Human Rights Committee. The delegation said that the Commission was a constitutional and independent body with a monitoring role, whereas the Presidential Committee was part of the Executive and ensured the respect and fulfilment of all basic human rights in the country. According to the delegation, the two institutions were working on complimentary bases. The Child Rights Centre was a part of the Human Rights Commission and played the role of a child Ombudsman in the Philippines. The Committee found the role of the two human rights bodies confusing and did not understand how an independent and governmental body could work jointly. Moreover, they believed that these two institutions had conflicting interests.

## **Dissemination**

The Committee enquired about the dissemination of the State party report and the Committee's concluding observations. The delegation responded that although the CRC was widely known but more information on the rights of the child had to be disseminated. They were focusing on raising awareness through various campaigns such as celebrating children's day and distributing the 3<sup>rd</sup> and 4<sup>th</sup> periodic report in a form of a brochure. The Asian child rights forum had been endorsed recently with a national child forum attended by 80 children.

## **Definition of the Child**

The Committee noted that the Filipino Constitution contained a vague definition of the child. The delegation answered that the definition was consistent with the CRC and was applied throughout the whole territory of the country. A child was a person below 18 years of age. The Committee asked about early marriages, especially in Muslim communities to which the delegation responded that a Muslim code co-existed in parallel with national legislation. Regarding liabilities, a child below the age of 15 was exempt from criminal liability, but not from civil liability. Children aged between 15 and 18 years old were also exempt from criminal liability, but they were subjected to an intervention programme.

## **General Principles**

### ***Non-discrimination***

The Committee was concerned about discrimination against children born out of wedlock. This issue was partially addressed in the opening statement by H.E. Cabral. The Committee disapproved the use of term "*illegitimate child*" by the delegation when referring to children born out of marriage. It expressed its disapproval regarding the discrimination of Muslim children and when exercising their right to education. The Committee asked what measure the government undertook to make sure children were not subject to stigmatisation. The delegation explained that the State party cooperated with religious communities' leaders to address this issue. The Committee asked about the law on the rights of indigenous people and the right to realise their cultural integrity, right to social justice and human rights. The delegation referred to the written replies which stated that the *Indigenous Peoples Act* provided the rights of indigenous peoples, including the right to ancestral lands, right to cultural integrity, right to self-governance and empowerment and right to social justice and human rights. It also created the National Commission on Indigenous Peoples (NCIP) as the

primary government agency mandated to promote and protect the well-being of IPs considering their customs, traditions, beliefs and practices. The delegation added that the customary law was applied to children of indigenous people in conflict with the law when both parties involved were indigenous. If one of the parties was non-indigenous, the national legislation was applied.

### ***Best interests of the child***

Some of the main concerns of the Committee stemmed from the situation of extreme poverty and natural disasters surrounding the country. The Committee emphasised that resources were highly important to ensure the implementation and monitoring of the CRC. The delegation stated that the best interests of the child were always respected within the judicial system, and children were treated with dignity. Moreover the State party took into consideration the cultural sensitivity of indigenous people and Muslims to ensure equal rights for all children. Children were not subjected to torture or any ill treatment, and life imprisonment and capital punishment could not be imposed on them. According to the Supreme Court decision, all imprisoned persons who had committed offences at the time when they were minors had been removed from jail.

### ***The right to life, survival and development***

The Committee asked how the State party was addressing the issues of extrajudicial killings and holding perpetrators responsible for these crimes. The delegation explained that various governmental bodies were working together and had created an inter-agency task force to investigate alleged summary killings. The investigation was still pending, but the Commission had stated that there was no established pattern of child killings and that the children in these cases had been “collateral victims”. The Committee asked whether there was explicit abolition of death penalty for minors in the Philippines. It added that the actual prohibition was not legally abolished. The delegation stated that the death penalty was abolished since 2006. The Committee stated that the poverty was a very common phenomenon in the Philippines and asked about the measures undertaken to protect children in the Philippines. The State party answered that it had created an index measuring the child well-being. This index was supposed to address the poverty rate.

## **Civil rights and freedoms**

### ***Birth Registration***

The Committee asked about timely birth registration in the Philippines. The delegation explained that it was free throughout the country; however a fee was invoked if another administrative service was involved. The delegation said that in order to facilitate the registration of indigenous people, the birth registration was made free of charge. It further informed the Committee that exclusive breastfeeding had increased with at least 3%, infant mortality and below 5 years mortality rate had decreased in 2008 and the number of fully immunised children had increased in 2008.

### ***Freedom of expression***

The Committee noted that in the report there was no information about the freedom of expression and belief, right to privacy, right to access to information. The delegation did not answer this set of questions.

### ***Protection from abuse and neglect***

The Committee enquired about the physical and mental violence towards children. It asked how the State party was planning to improve the monitoring of child protection in the context of child abuse, especially sexual abuse. The delegation explained that physical and mental violence had had no place in the country for a long time. Inflicting physical injuries or abuse can be prosecuted under the penal code. The delegation added that there was a pending bill before the congress in order to redefine the legislation on corporal punishment and other forms of violence to also include verbal physical or psychological violence. The delegation underlined that it was a difficult issue to address, as it was complex to monitor what happened in one's household.

## **Family environment and alternative care**

### ***Parental guidance and responsibilities***

The Committee was concerned that the length of maternity leave in Philippines was only 6 weeks while the ILO recommended length for maternity leave was 18 weeks. The delegation acknowledged that it was facing difficulties in monitoring the implementation of the Milk Code. It informed the Committee that the government allowed for up to ten weeks maternity leave. Several campaigns had been carried out to promote the breastfeeding. One of them consisted of establishing breastfeeding stations in malls, workplaces, and city halls in order to promote breastfeeding. The delegation did not comment on the efficiency of this programme.

### ***Children deprived from a family environment***

The Committee asked about the children whose parents were working abroad. It wondered if the government provided assistance to the families of overseas workers. The delegation explained that the State was providing the Filipino families with training, counselling as well as funds for projects. The delegation added that the Filipino culture was a family oriented and that often the extended family took care of children left behind by overseas workers. The government also focused its efforts on how it could attract overseas workers back to the country.

## **Basic health and welfare**

### ***Health and health services***

The Committee was concerned that due to labour migration there was a shortage of health professionals. The delegation said that in order to prevent the shortage, the government was providing scholarships for doctors with free tuition fees. The Committee asked about the issues of reproductive health, safe abortion and measures to improve early identification of children with disabilities. The delegation ensured the Committee that they were addressing the challenges posed by the MDGs and cited that maternal mortality rate had declined in the last decade. It explained that the Newborns Screening Act of 2004 included various health issues that were covered by the health insurance of the mother. The government had campaigned for universal health coverage so that the poorest were not excluded from health services. Regarding abortion, the delegation said that it was forbidden under the Philippine Constitution and was considered as a crime in the country. That was the reason why the government focused so much on contraception and family planning methods.

### ***Children with Disabilities***

The Committee enquired about children with disabilities as the report had no mention about

it. The delegation explained that the Newborns Screening Act of 2004 provided early detection of mental retardation. The Committee was concerned that there was a lack of definition of children with disabilities. The delegation explained that the registration of disabled persons was still on-going and they could not yet determine how big the disabled population was in the country. It assured that they would address this issue shortly.

### **Education, leisure and cultural activities**

The Committee was concerned about the attendance rate in schools. It asked whether education was accessible to all children in the Philippines including children from vulnerable groups such as indigenous, children with HIV/AIDS, disabled, and poor children. It questioned the efficiency of the education system given that there was reduction of the budget allocation for education. The delegation admitted that the budget constraint was always a problem as far as covering basic needs was concerned. It ensured that the government was trying to provide access to education to every citizen. The delegation explained that both elementary and secondary school were free. However, only the elementary school was compulsory. The delegation said that the State party created various programmes to increase school attendance, as according to a study the root causes of the dropout rate was mentioned to be, among others, poverty. The government was, therefore, carrying out programmes to address poverty through hunger mitigation and feeding programmes in the day-care centres and in elementary schools from grades one to three. The Committee was interested in the “meal for education” programmes and asked for a detailed account of monitoring these programmes. The delegation explained that programmes such as food for school or cash transfer had verification and monitoring programme. There were no cases where the parents kept the money, as they wanted their child to benefit from it.

### **Special protection measures**

The delegation stated that when it comes to indicating issues affecting children and considering priorities requiring the most urge attention, child protection stood as a priority aside from having more budget allocation and more statistics.

On a separate note, the Committee commended the State party for signing the Rome Statute and recommended to ratify it.

#### ***Children in Armed Conflict and Refugees***

The Committee enquired how the State party was planning to monitor the situation on children in armed conflict and refugee children. The Committee asked about the recent statement of the President calling for peace and declaring September as a month of peace. It wondered whether they resumed peace negotiations and whether they had affected children. The delegation said that peacekeeping and rehabilitation processes governed the peace progress. It explained that the State party was taking actions in order to ensure the well-being of children in armed conflict such as providing them with shelters, livelihood assistance, counselling, child care placement for orphans, to name but a few.

#### ***Children in conflict with the law***

The Committee wanted to have a more detailed account of the children in conflict with the law. The delegation answered that the best interest of the child was always protected. For example, life imprisonment and capital punishment could not be imposed on children in the Philippines. The delegation added that as of 14 September 2009 there were a total of 440 children convicted of a criminal offence. From those 440, 61 had been diverted to the Department of Social Welfare and Development, 16 were detained with the Bureau of Jail

Management and Penology, 347 were with the Bureau of Corrections, 2 were with the Manila Youth Reception Centre and 14 were with non-governmental organizations. The Department of Social Welfare continued to provide care to children in conflict with the law. The delegation acknowledged that there was a proposal before the Senate to lower the age of criminal responsibility from 15 to 9 years; however, it would have to be discussed in both chambers. The delegation confirmed that recruited children were considered as victims, not as violators of the law.

### ***Protection from Sexual Exploitation***

The Committee was concerned about practices of sexual abuse and exploitation in the country. It also enquired about legal and rehabilitation proceedings in these cases. The delegation said that children were the responsibility of their parents and whenever there was a violation of their rights; parents were involved in the rehabilitation of their children. The delegation reassured the Committee that the names of victims were kept confidential. The Committee seemed to believe that this confidentiality could be harmful for the child, as it would make it more difficult to keep records on victims and to verify that it would not happen again. As for the protection of children against sexual exploitation, the delegation said that perpetrators were subjected to punishment, including imprisonment from 6 to up to 20 years. In cases of sexual exploitation or trafficking for sexual exploitation, punishment could go even higher.

### ***Children belonging to a minority or an indigenous group***

The Committee asked about measures taken to ensure the integration of minorities, especially Muslim minorities and indigenous peoples in the educational system. The delegation explained that basic education was offered in all over the country. It informed that Committee that Arabic language and Islamic values were included in the school curricula and classes on cultural values and heritage of indigenous peoples were provided therein.

## **Concluding remarks**

In his concluding remarks Mr Koompraphant, the Co-Rapporteur, said that the discussion gave the Committee a good perspective on the situation in the State party. The Committee learnt about the challenges faced by the State party in implementing and monitoring the CRC. The Committee expected progress in the area of the definition of the child, as well as in making resources available to students, taking measures to prevent children's involvement in armed conflict and providing better access to social services.

The delegation thanked the Committee for their questions and final remarks. It highlighted the difficulties in the implementation of the CRC. The delegation appreciated the observations of the Committee and strongly believed that it will guide them in the implementation of the CRC. The delegation assured the Committee that it will develop a plan for the CRC dissemination, as well as for activities at administrative, legislative and executive levels. It stated that civil society would continue to work jointly with the government to better handle challenges.