Philippines (the)

Committee on Elimination of Racial Discrimination considers report of the Philippines

Report

UN Committee on the Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination has considered the combined fifteenth to twentieth periodic report of the Philippines on its implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

Presenting the report, Erlinda Basilio, Permanent Representative of the Philippines to the United Nations Office at Geneva, said that throughout their history, the Filipino people and Government had contributed to the struggle against discrimination through their own national quest for independence, sovereignty and development. The Philippines was composed of a diverse mix of indigenous groups, influenced by both Eastern and Western traditions. Due to the large amount of contacts between their peoples over the ages with other nations and peoples, the Philippine society had naturally adopted an open and tolerant disposition with inherent respect for cultural diversity. Their Constitution stipulated that the State recognized and promoted the rights of indigenous cultural communities within the framework of national unity and development. Since the last time the Philippines had appeared before the Committee in 1997, the Government had enacted numerous initiatives that promoted the Convention's provisions. The Government of the Philippines had also established the Office on Muslim Affairs in 1987 with the mandate to preserve and develop the culture, traditions, institutions and well being of Muslim Filipinos. The Philippines had also been cited in a recent study on the right to education conducted by the Expert Mechanism on the Rights of Indigenous Peoples of the United Nations Human Rights Council as having a number of good practices in giving recognition to pluralistic systems of education and equal importance to traditional ways of teaching and learning and the provision of vocational training and re-training for indigenous peoples.

In preliminary concluding observations, Patrick Thornberry, the Committee Expert who served as Rapporteur for the report of the Philippines, said on the consistency of laws, a very complex system of laws had been presented. They had heard much on the Indigenous Peoples Rights Act. In relation to armed conflicts, some promising thoughts on the peace process and the issue of displacement had been delivered by the delegation. He noted the observations on International Labour Organization Convention 169 and observed that there was an ongoing debate in the Philippines on this issue. He underscored the position of the Committee about the lack of a law on discrimination and noted the remarkable Indigenous Peoples Rights Act.

Other Committee Experts raised questions and asked for further information on subjects pertaining to, among other things, the protection of indigenous people and children in armed conflicts; the immigrant population residing in the country; the status of the Convention in the national legislation; the status of indigenous people living in municipalities; the rights of people originating from autonomous Muslim regions; the content of the anti-terrorism law; the delegation's position on the allegations, by the Special Rapporteur on extrajudicial, summary or arbitrary executions, of torture and extrajudicial killings by the national police; access to ancestral lands; and sexual tourism. Several Experts also commented on the fact that the report and the delegation claimed that discrimination was alien to the Philippines. Experts said that the lack of any complaints was not necessarily a good thing, as there could be many reasons for that. Also, even small countries like Malta or Lichtenstein, which had a rather homogenous population, were faced with issues of discrimination. Thus, it was hard to think that this was not the case for a multi-ethnic and pluri-lingual society, such as in the Philippines.
At the beginning of the meeting today, the Committee observed one minute of silence in memory of the United Nations staff that were killed in the Canal Hotel Bombing in Iraq in 2003.

The delegation of the Philippines also included members of the National Commission on Indigenous Peoples, the Office of the Executive Secretary, the Office of the Presidential Adviser on the Peace Process, the Office on Muslim Affairs and the Commission of Human Rights of the Philippines.

The Committee will present its written observations and recommendations on the combined fifteenth to twentieth periodic report of the Philippines, which was presented in one document, at the end of its session, which concludes on 28 August.

When the Committee reconvenes at 3 p.m. this afternoon, it is scheduled to take up the combined seventh to sixteenth periodic report of Ethiopia (CERD/C/ETH/15).

Report of the Philippines

The combined fifteenth to twentieth periodic report of the Philippines, submitted in one document (CERD/C/PHL/20), says that racial discrimination, as defined under paragraph 1, article 1, of the Convention, is alien to the prevailing mores and culture of the Filipino people and that there has never been any reference to the existence of a discriminatory policy on racial grounds, nor has there been any allegation of instances of racial discrimination as a specific kind of human rights violation in the Philippines, even before or immediately after the Philippines adopted and ratified the Convention on the Elimination of Racial Discrimination. Racial discrimination has never existed among ancient Filipinos who belong to a single racial stock, the Malays. It was in fact the ideological, cultural and socio-economic legacy of a long history of colonialism that brought about the present differences in the levels of development between the majority of Filipinos and those among them who tenaciously cleaved to the indigenous Filipino cultural heritage, i.e., the Muslim Filipinos in the south and the indigenous cultural communities in northern and southern Philippines. Millennia of living and interacting among the various ethno-linguistic groups and cultural influences from abroad have forged a tolerant and democratically-oriented Philippine society.

While the vast majority of indigenous groups in the Philippines have adopted modern lifestyles, some small indigenous groups chose to maintain their traditional way of life. In recognition of this fact, and as an affirmative action to promote and protect the human rights of small indigenous groups in a fast changing world, the Philippines enacted Republic Act 8371, otherwise known as the "Indigenous Peoples Rights Act (IPRA) of 1997" that seeks to recognize the ancestral domains and lands of small indigenous groups, preserve their distinct cultural identity and promote and protect their human rights, including their means of livelihood. The vast majority of indigenous groups in the Philippines, such as the Tagalog, the Cebuano, the Ilocano, the Ilongo, the Bicolano, the Kapampangan, the Waray, the Panggatalok, etc., have been Christianized and have adopted modern lifestyles. Other major indigenous groups, such as the Maranao, the Maguindanao and the Tausug, have embraced the Muslim faith and follow an Islamic way of life. However, some small indigenous groups chose to maintain their traditional way of life.

Presentation of Report

ERLINDA BASILIO, Permanent Representative of the Philippines to the United Nations Office at Geneva, said that the values of democracy, social justice and human rights were firmly rooted in Filipino society and were the pillars of the Philippine governance. The attainment of these values had been hard fought by their people. The Government appreciated the important role of the National Commission on Human Rights of the Philippines and civil society in raising awareness of human rights and the need to be vigilant against all forms of discrimination.

Throughout their history, the Filipino people and Government had contributed to the struggle against discrimination on the basis of race, colour, national or ethnic origin, sex and language or religion, through their own national quest for independence, sovereignty and development, said Ms. Basilio.
The Philippines was composed of a diverse mix of indigenous groups, influenced by both Eastern and Western traditions. Due to the large amount of contacts between their peoples over the ages with other nations and peoples, such as China, India, the Middle East, other Southeast Asian nations, and under the colonization of Spain, the United States and Japan, Philippine society had naturally adopted an open and tolerant disposition, with inherent respect for cultural diversity, noted Ms. Basilio.

Ms. Basilio said that the Constitution of the Philippines stipulated that the State recognized and promoted the rights of indigenous cultural communities within the framework of national unity and development. It was also stated in it that highest priority should be given to the enactment of measures that protected and enhanced the right of all people to human dignity, reduced social, economic and political inequalities, and removed cultural inequities by equitably diffusing wealth and political power for the common good.

Since the last time the Philippines had appeared before the Committee in 1997, the Government had enacted numerous initiatives that promoted the provisions of the Convention on the Elimination of All Forms of Racial Discrimination and took into account previous suggestions and recommendations of the Committee, said Ms. Basilio. Institutions dedicated to the promotion and protection of the human rights, culture and well-being of Philippine indigenous peoples and Muslim Filipinos had also been created by the Government.

Highlighting a recent study on the right to education conducted by the Expert Mechanism on the Rights of Indigenous Peoples of the United Nations Human Rights Council, Ms. Basilio said that the Philippines had been cited as having a number of good practices in giving recognition to pluralistic systems of education and equal importance to traditional ways of teaching and learning and provision of vocational training and re-training for indigenous peoples.

Ms. Basilio said that the Government of the Philippines had established the Office on Muslim Affairs in 1987 with the mandate to preserve and develop the culture, traditions, institutions and well being of Muslim Filipinos, in conformity with the country's laws and in consonance with national unity and development. Among its functions were to undertake and coordinate development programmes and projects for the advancement of Muslim communities, formulate programmes for the development of Madrasa schools, and strengthen programmes on Islamic studies and legal education and research in the field of Sharia and Islamic jurisprudence.

Due to their long and arduous struggle for independence against three consecutive colonizers over the centuries, the Filipino people had ever since championed the cause of eliminating colonization, repression, racial discrimination and discrimination based on origin, colour, language, belief or religion, and sex, said Ms. Basilio.

As examples of the Philippines' strong commitment, Ms. Basilio highlighted the fact that, during World War II, the Philippines has opened its doors to Jewish refugees seeking refuge from Nazi oppression; had provided permanent refuge for the Vietnamese boat people in the late 1990's; had fought for the interests of smaller and colonized nations; and had been an influential member of the United Nations Committee against Apartheid.

MARIA TERESA LEPATAN, Minister at the Philippine Mission to the United Nations, in a power point presentation on the question on the progress of indigenous peoples in local governance, said that indigenous people had been involved very early on in local governance and in nation building in the Philippines.

Tracing back indigenous peoples' participation in nation building since 1916, when the United States Congress had enacted the Philippine Autonomy Act, Ms. Lepatan said that the first Muslim senator of the Philippine legislature had belonged to the Tausog ethnic group from Sulu, which presently comprised 1.16 per cent of the population. He had also been a member of the national commission that had been tasked with the creation of a Philippine national language. Other Muslims and indigenous peoples had followed his footsteps and had become Senators of the Republic.
Since the passage of the Philippine Autonomy Act, members of indigenous ethnic groups had been part of the lower house of the Philippine legislature. Many of these legislative representatives had then alternated between legislative and executive positions, such as provincial governors and mayors. Further, in 1934 representatives from all the provinces of the Philippines had gathered in Manila to draft the Constitution. Indigenous people from all over the country had been represented there, said Ms. Lepatan.

In 1997 the Indigenous Peoples Rights Act had been signed into law, granting rights to indigenous cultural communities and indigenous peoples, said Ms. Lepatan. This law was an affirmative action in support of social justice that was at the core of Philippine national and development policies. This law had also created a national commission on indigenous people to oversee its implementation. A key feature of the law was the concept of ancestral domains.

MASLI QUILAMAN Director, National Commission on Indigenous Peoples, in a second power point presentation, gave a description of the evolution of Filipino indigenous cultural communities and indigenous people and the Philippine Government's recognition, protection, promotion and fulfilment of their collective and individual human rights. His presentation also outlined and described the evolution of Filipino indigenous peoples from colonial times to the present.

Mr. Quilaman said that immediately upon passage of the Indigenous Peoples Rights Act in 1997, its constitutionality had been questioned before the Supreme Court by forces which had vested interests in the exploitation of the rich natural resources within the expanse of the ancestral domains of the indigenous people.

Outlining the process of ancestral domain/land delineation and titling, Mr. Quilaman said that the process started with the filing of petitions for application by the concerned indigenous peoples. The application was submitted together with a community resolution and testimony of elders. Attached to it were pictures and descriptions of landmarks such as burial grounds, sacred places and old villages, amongst others.

Mr. Quilaman said that the National Commission on Indigenous Peoples had already issued 130 certificates of ancestral domain titles and 215 certificates of ancestral land titles, amounting to 27 per cent of the total national land area. The National Commission was composed of seven commissioners, each representing an ethnographic region of the country. The mandate of the commission was to protect and promote the interests and well-being of indigenous people with due regard to their beliefs, customs, traditions and institutions.

Mr. Quilaman noted that there were currently 110 indigenous peoples groups in the Philippines and that they were located all over the Archipelago and that they amounted to 16 per cent of the total population.

BASILIO WANDAG Director, National Commission on Indigenous Peoples, continuing the power point presentation of his colleague, said that the National Commission had been instrumental in the so-called free and prior informed consent, which was the consensus of all members of the indigenous cultural communities that was determined in accordance with their respective customary laws and practices that was free from any external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the plan, programme or activity, in a language and process that was understandable to the community.

Mr. Wandag said that the National Commission had also supported the conduct of cultural festivals and had developed with the department and indigenous people culture-specific indigenized curricula and culturally appropriate learning materials.

The National Commission had further documented cases of indigenous peoples children involved in armed conflict by non-state actors; had catered various socio-economic and cultural development projects; and had assisted indigenous people community schools, said Mr. Wandag.
Oral Questions Raised by the Rapporteur and Experts

PATRICK THORNBERRY, the Committee Expert serving as Rapporteur for the report of the Philippines, said that 12 years had passed since the Philippines had last appeared before the Committee and hoped that there would not be such a long interval until the next presentation.

Mr. Thornberry welcomed the ratification of a number of instruments by the Philippines, such as the Optional Protocol to the Convention on the Rights of the Child. He recommended that the Philippines ratify International Labour Organization Convention 169 as this Convention was a benchmark of indigenous rights.

Noting that, in the report, the Indigenous Peoples Rights Act had been adopted as "an affirmative action", Mr. Thornberry said that it might be better to rather look at it as the expression of indigenous people's rights.

Turning to the armed insurgencies and the long-time conflicts, which impeded progress in the country, Mr. Thornberry noted that the peace process was largely inactive nowadays. Could the delegation give further details on this issue?

On the protection of indigenous people and children in armed conflicts, Mr. Thornberry said that there was apparently a monitoring and reporting mechanism in the country and he wished to know more about it. Also, could the delegation elaborate on the immigrant population residing in the country?

He was not completely sure about the status of the Convention on the Elimination of All Forms of Racial Discrimination in national legislation; could the delegation elaborate on this issue?

Mr. Thornberry said that one often thought of indigenous people as living in nature, but the State party's report mentioned indigenous people living in municipalities. What was their status of living?

On the autonomous Muslim regions, what local legislation applied to them and how did it supplement national standards for the protection of indigenous people?

On free, prior and informed consent, Mr. Thornberry noted that the Philippines seemed to be one of the originators of this concept. He wondered however what kind of protests could be used by indigenous people if they felt that there was a problem in such a process. Could the delegation comment on the issue of “prior existing rights”?

Other Committee Experts made comments and asked for further information on subjects pertaining to, among other things, the fact that the State party's report lacked practical information and examples of the implementation on the ground of all the provisions of the legislation on discrimination.

Another Expert noted that the report had said that discrimination was alien to the country and that there had never been any complaints of discrimination. However, he said that a law was vital for preventive measures. Further, the lack of any complaints was not necessarily a good thing as there could be many reasons for such a fact, such as, for example, insufficient awareness of the legalisation or fear of the police.

Other Experts asked what the content of the anti-terrorism law was; the delegation's position on the allegations of the Special Rapporteur on extrajudicial, summary or arbitrary executions of torture and extrajudicial killings by the national police; and the measures taken for the protection of children in armed conflicts.

Another Expert also noted that the report stated that discrimination was non-existent in the Philippines, and explained this by the fact that Filipinos all had the same ethnic origin. The Expert said that no State was entirely free of discrimination. Weak and under-privileged people were exploited all over the world and thus the State had to maintain a high state of vigilance.
What did the State Party intend to do to address the demands made during the Universal Periodic Review of the Philippines by other United Nations Member States on extra-judicial killings and the protection of witnesses, asked another Expert.

Other Experts wondered what the state of national and racial profiling in the Philippine's war against terror was? Had the proposed visit of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism already taken place?

An Expert also noted that even small countries, like Malta or Lichtenstein, which had a rather homogenous population, were faced with issues of discrimination. It was hard to think that this was not the case for a multi-ethnic and pluri-lingual society, such as in the Philippines. Another Expert noted the fact that indigenous people faced difficulties in connection with access to their ancestral domains and lands. This was real existent discrimination. One should be careful and always measure its statements in the light of reality.

Other Experts wondered whether the Convention could be invoked directly. Were indigenous people involved in the development of the census? Could the delegation give information on the phenomenon of sexual tourism? How had it affected the indigenous population? Did people from autonomous regions have the same rights when they lived outside the autonomous regions?

Presentation by the Philippine Commission on Human Rights

CECILIA QUISUMBING, Commissioner, Commission on Human Rights of the Philippines, in a power point presentation, said that while many of the vulnerable races in the Philippines were those of indigenous people, there were other races in Philippine society that were not indigenous but nevertheless deserved the same protections from discrimination. Lacking an international instrument specific to protections for the rights of indigenous peoples, the Convention was an effective instrument for protecting and promoting the rights of indigenous peoples.

There was no single predominant race in Philippine society and many of the population were of mixed-race backgrounds with the intermingling dating back decades if not centuries, said Ms. Quisumbing. Among the major factors affecting the enjoyment and fulfilment of the human rights of all races were the general economic development situation, the global economic crisis, a government policy to promote mining investment and activities and ongoing internal armed conflicts in areas where indigenous communities resided.

Ms. Quisumbing said that the Philippine Commission on Human Rights was independent of the Government and all organizations. Under its general mandate, the Commission monitored the national situation on race and indigenous people matters, and looked into specific cases and complaints of civil and political rights violations. The Commission also advised and advocated for policies and programmes and laws and actively participated in congressional hearings. It also conducted training for seminars, workshops, capability building for all sectors and had conducted workshops on the related human rights obligations and legal tools to address disappearances and extrajudicial killings for judges, prosecutors and civil society.

The Commission was currently conducting, in partnership with the Commission on Human Rights of New Zealand, a project on community empowerment for indigenous communities. In 2005, the Commission had also initiated a pilot study on the diagnosis of indigenous peoples’ rights to ancestral domains and ancestral lands. The survey had indicated that among the participating communities, there had been a generally high awareness of their rights and the Government agencies that were responsible for the delivery of key services, said Ms. Quisumbing.

Turning to International Labour Organization Convention 169, the Commission did not feel that the Indigenous Peoples Rights Act did not make ratification of Convention 169 unnecessary, said Ms. Quisumbing.
On the armed forces, they had indigenous people desks at all command levels, said Ms. Quisumbing, which identified indigenous communities in the area, assessed their condition and raised concern to the attention of relevant agencies if warranted. It was the armed force policy to isolate indigenous people from conflicts and to carry out activities to mitigate effects on them.

The Commission had not found any instance or policy of deliberate withholding or denial of basic services to minority communities based on race. Lack of access and opportunity was caused mainly by location and poverty. However, the Commission felt that there was room for improvement in the area of the State’s obligation to actively take measures to ensure that certain groups were able to fully enjoy their rights, said Ms. Quisumbing.

On access to justice, Ms. Quisumbing said that minority races were hampered by language, costs of travelling repeatedly, lack of understanding of the system and the limited amount of interpretation for non-major languages.

While the Philippines was free of racial supremacist groups, the Commission wanted to call attention to two long-standing phenomena that tended to get lost in the Committee’s discussions: crimes against the Filipino-Chinese community and societal marginalization of the illegitimate and unrecognized children of American servicemen. Chinese and Chinese-Filipino communities around the country had been targets of kidnappings for ransom for at least twenty years, said Ms. Quisumbing. The phenomenon had been blamed on persons with access to information to bank accounts and finances of the families.

A new trend that should be carefully monitored was the fact that the Philippines had a growing number of immigrant workers, especially for the back-office industry such as call centers. Brazilians were brought in to staff such call centers for Portuguese speaking client companies. The Philippine should prepare safeguards for migrant workers, said Ms. Quisumbing.

Turning to extrajudicial killings, courts of rebel groups, government counterinsurgency activities and rogue members of the military police were blamed for the problems of enforced disappearances, abductions, torture, extrajudicial killings, said Ms. Quisumbing. There was a possible element of targeting of indigenous peoples and minorities.

Many of the armed insurgency groups conducted their activities in areas where indigenous peoples and minority groups resided and some even claimed to be fighting on behalf of autonomy rights for a Muslim nation. The counterinsurgency efforts of the armed forces and the intelligence community did often look at members of the local communities as possible supporters, informers or even secret combatants for the insurgents. Rebel groups had also been known to harass villagers and to collect taxes, Ms. Quisumbing.

Indigenous peoples were in the middle of the cross fire in the areas of armed conflict, thus many internally displaced persons were also indigenous peoples. The Commission noted that several Government bodies and agencies were taking interest in the condition of internally displaced persons, Ms. Quisumbing.

Indigenous people were not only displaced by armed conflict but also by development and private sector projects, including mining explorations, constructions of dams and implementation of demolition orders, said Ms. Quisumbing. Many of the ancestral domains were rich in natural resources and thus prime targets for commercial exploitation.

The Commission also noted that there were certain groups that felt dissatisfied with the current process for free prior and informed consent. The process could make the indigenous peoples vulnerable to some violations of their rights over their ancestral domains and lands, truly because of misinformation, misrepresentation, bribery and intimidation. Complaints lodged in the Commission showed that violations came in the forms of dislocation, threats, harassment, deprivation of life, and poverty, said Ms. Quisumbing.
Response by Delegation to Oral Questions

The delegation said that treaty reporting was central to the Philippines. The delay in the reporting to the Committee was unfortunate, but there had been serious international, national, natural and manmade challenges in the period which had hampered the work on the report. Treaty reporting was also a heavy load for developing countries, such as the Philippines.

The delegation noted that different groups of one ethnic group might speak different languages, depending on where they lived in the country. It was thus not possible to correlate ethnic and language groups.

On the censuses conducted by the Government, the delegation said that gathering of data involved a lot of money but that they were in-line with United Nations standards and guidelines.

Turning to the status of the Convention in the law, the delegation sa

UN Committee on the Elimination of Racial Discrimination:

Ref.: http://reliefweb.int/node/321144