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RESOLUTION 5/1 OF THE HUMAN RIGHTS COUNCIL

Philippines

This report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions of the Office of the High Commissioner for Human Rights (OHCHR). It follows the structure of the general guidelines adopted by the Human Rights Council. Information included therein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being of four years, most documents are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have also been taken into consideration, unless outdated. Since this report only compiles official United Nations documents, lack of information or focus on specific issues may be due to non ratification of a treaty, and / or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

<i>Core universal human rights treaties</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of Treaty bodies</i>
ICERD ²	15/06/1967	No	Individual complaints (art. 14): No
ICESCR ³	07/06/1974	No	-
ICCPR ⁴	23/10/1986	No	Inter-state complaints (art. 41): Yes
ICCPR-OP 1 ⁵	22/08/1989	No	-
ICCPR-OP 2 ⁶	20/11/2007	No	-
CEDAW ⁷	05/08/1981	No	-
OP CEDAW ⁸	12/11/2003	No	Inquiry procedure (art. 8 and 9): Yes
CAT ⁹	18/06/1986	No	Inter-state complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): No
CRC ¹⁰	21/08/1990	No	-
CRC OP-AC ¹¹	26/08/2003	Yes ¹²	-
CRC OP-SC ¹³	28/05/2002	No	-
ICRMW ¹⁴	05/07/1995	No	Inter-state complaints (art. 76): No Individual complaints (art. 77): No
<i>Core treaties to which Philippines is not a party: OP-CAT¹⁵, CPD¹⁶, CPD-OP¹⁷ and CED.¹⁸</i>			
<i>Other main relevant instruments</i>		<i>Ratification, accession or succession</i>	
Convention on the Prevention and Punishment of the Crime of Genocide		Yes	
Rome Statute of the International Criminal Court		No	
Palermo Protocol ¹⁹		Yes	
Refugees and Stateless Persons ²⁰		Yes, except 1954 and 1961 Conventions	
Geneva Conventions and their Protocols ²¹		Yes, except Protocol I	
ILO Fundamental Conventions No 29, 105, 87, 98, 100, 111, 138 and 182. ²²		Yes	
UNESCO Convention against Discrimination in Education		Yes	

1. In 2003, HR Committee recommended the State to accede to ICCPR-OP 2.²³ On 20 November 2007, the Philippines ratified ICCPR-OP 2.²⁴

B. Constitutional and legislative framework

2. CRC, CEDAW and UNICEF took note in 2005, 2006 and 2007 respectively of the relatively advanced legal framework and welcomed many legislative initiatives, *inter alia*, the *Anti-Trafficking in Persons Act* of 2003; the *Anti-Violence against Women and Their Children Act* of 2004; the *Republic Act* of 2003 No. 9231, which amends the *Special Protection of Children against Child Abuse, Exploitation and Discrimination Act*; the *Republic Act* of 2004 No. 9255, amending the *Family Code* of the Philippines; the *Family Courts Act* of 1997; the *Rape Victims Assistance Act* of 1998; the *Indigenous People's Rights Act* of 1997 and the *Social Reform and Poverty Alleviation Act* of 1997.²⁵ Despite these laws, UNICEF noted that children and women victims often face difficulties in seeking justice for discriminatory practices and crimes committed against them, in spite of ongoing efforts to make the legal and judicial system gender-sensitive and child-friendly.²⁶ In this context, CRC recommended in 2005 that the State take all necessary measures to harmonise its legislation fully with the provisions and principles of the CRC.²⁷

3. CEDAW was concerned in 2006 that there is no definition in national legislation of discrimination in line with article 1 of CEDAW, encompassing both direct and indirect discrimination, in the national legislation.²⁸ CEDAW was particularly concerned about existing discriminatory provisions in the *Code of Muslim Personal Laws*, which permit marriage of girls under 18, as well as polygamy and arranged marriages.²⁹ CEDAW urged the State to strengthen the legal framework for the promotion of gender equality as well as to expedite the adoption of pending bills, and initiate all necessary revisions in order to promptly bring relevant national laws into line with the provisions of CEDAW.³⁰ CERD noted with concern in 1997 that there is no specific legislation prohibiting racial discrimination. The Committee recommended that domestic legislation be amended so as to prohibit racial discrimination as defined in article 1 paragraph 1 of ICERD.³¹

C. Institutional and human rights structure

4. The national human rights institution, the Commission on Human Rights of the Philippines (CHRP) was accredited with A status in 1999 by the International Coordinating Committee of NHRIs (ICC) and re-accredited in 2007 as part of a standard review procedure.³² CERD in 1997³³ and CRC in 2005³⁴ welcomed the establishment of the CHRP. However, while acknowledging the CHRP's activities regarding the rights of the child, CRC was concerned at its limited mandate and resources.³⁵ The Committee recommended that the State consider broadening the mandate of the CHRP regarding the monitoring of children's rights and providing it with adequate resources in order to strengthen the investigation of individual complaints in a child sensitive manner.³⁶

D. Policy measures

5. In 2005, CRC welcomed the launching of a National Strategic Framework Plan for the Development of Children 2001-2025, known as Child 21, and the holistic approach adopted to address child rights issues and related progress and shortcomings.³⁷ CEDAW welcomed the Philippines Plan for Gender-Responsive Development (1995-2005) which intended to operationalise CEDAW and the Beijing Platform for Action.³⁸

6. With regard to the World Programme for Human Rights Education,³⁹ the Philippines has developed the Human Rights Education Decade Plan (1998-2007). This Plan was developed through a series of consultative workshops at the national and local levels and aims at institutionalizing human rights education in all priority sectors of the society. It compiles specific plans for the formal, non-formal and community-based sectors.⁴⁰

I. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

<i>Treaty Body</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up Response</i>	<i>Reporting status</i>
CERD ⁴¹	1997	August 1997	-	15 th to 19 th periodic reports overdue from 1998 to 2006 respectively
CESCR ⁴²	1994	May 1995	-	2 nd to 4 th periodic reports, overdue since 1995, submitted in 2006, to be reviewed in 2008
HR Committee ⁴³	2002	October 2003	-	4 th periodic report overdue since 2006
CAT ⁴⁴	1989	1989	-	2 nd to 5 th periodic reports overdue from 1992 to 2004 respectively
CEDAW ⁴⁵	2004	August 2006	-	7 th and 8 th periodic reports due in 2010
CRC ⁴⁶	2003	June 2005	-	3 rd and 4 th periodic reports due in 2007
CRC OP AC	-	-	-	Initial report submitted in 2007
CRC OP CP	-	-	-	Initial report overdue since 2004
CMW ⁴⁷	-	-	-	Initial report overdue since 2004

1. Cooperation with Treaty bodies

7. CERD will consider the situation of the Subanon people under its early warning and urgent action procedure at its 72nd session, to be held from 18 February to 7 March 2008. CERD strongly encouraged the Philippines to submit its fifteenth to nineteenth overdue periodic reports in a single document by 30 June 2008, with the view of considering them at its 73rd session, to be held from 28 July to 15 August 2008.⁴⁸

2. Cooperation with Special procedures

<i>Standing invitation</i>	No
<i>Latest visits or mission reports</i>	Special Rapporteur on the human rights of migrants (20 May-1 June 2002) ⁴⁹ Representative of the Secretary-general on internally displaced persons (6-14 November 2002) ⁵⁰ Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (2-11 December 2002) ⁵¹ . Special Rapporteur on extrajudicial, summary or arbitrary executions (12 to 21 February 2007) ⁵²
<i>Visits agreed upon in principle</i>	Special Rapporteur on adequate housing (2003) and Special Rapporteur on independence of judges and lawyers (2 October 2006).
<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on the rights of migrants (2002, reminder 2006); Special Rapporteur on toxic waste (1 February 2005); Special Rapporteur on the right to food (17 May 2006, reminder 3 July 2007); Working Group on enforced and involuntary disappearances (24 May 2006); Special Rapporteur on human rights and counter-terrorism (9 December 2005, reminder 18 October 2007); Independent Expert on the question of human rights and extreme poverty (2006)
<i>Facilitation/cooperation during missions</i>	The Special Rapporteur on extrajudicial, summary or arbitrary executions noted that the success of his visit owed much to the full cooperation shown to him by the Government. ⁵³
<i>Responses to letters of allegations and urgent appeals</i>	Between 1 January 2004 and 31 December 2007, a total of 3 communications were sent to the Government of the Philippines. In addition to communications sent for particular groups, 283 individuals, including 43 women, were covered by these communications. Between 1 January 2004 and 31 December 2007, the Government replied to 51 communications, which represents replies to 56% of communications sent.

<i>Follow-up to visits</i>	-
<i>Responses to questionnaires on thematic issues</i> ⁵⁴	Out of 12 questionnaires sent by the Special Procedures mandate holders ⁵⁵ between 01 January 2004 and 31 December 2007, the Philippines responded to 6 of them within the deadlines. ⁵⁶

3. Cooperation with the Office of the High Commissioner for Human Rights

8. OHCHR's engagement with the Philippines involves working in partnerships with the Government and a wide range of national partners, including different State actors, the national human rights institution, civil society, and the United Nations country team.⁵⁷ At a national level, OHCHR is implementing a project to engage different national actors in the reporting process and follow-up to treaty bodies recommendations, including through training workshops, one of which was hosted in the Philippines in 2007.⁵⁸ At a regional level, the Philippines has hosted several workshops / trainings, including a Regional Workshop on the Establishment of National Human Rights Institutions in Asia held in 2007 and a training on techniques for human rights investigations for national human rights institutions held in 2005.⁵⁹ The High Commissioner's Strategic Management Plan for 2008-2009 foresees the deployment of a Human Rights Adviser, under the Action 2 Global Programme. During the 2004-2008 period, the Philippines has regularly contributed financially to OHCHR.⁶⁰

B. Implementation of international human rights obligations

1. Equality and non discrimination

9. In 2003, the HR Committee took note of the constitutional provisions guaranteeing equal treatment of all persons before the law and urged the State to take the necessary steps to adopt legislation explicitly prohibiting discrimination. It also urged the State to strengthen human rights education to forestall manifestations of intolerance and *de facto* discrimination.⁶¹

10. While noting the provisions of the *Indigenous Peoples' Rights Act (IPRA)* as well as programmes and projects for children belonging to minorities and indigenous peoples, CRC was concerned about the discrimination against minorities, indigenous peoples and Muslims. It recommended in 2005 that the State ensure that indigenous children and children belonging to minorities fully enjoy all of their human rights equally and without discrimination; that it strengthen its efforts to implement the *IPRA* and develop and implement policies and programmes to ensure equal access for indigenous and minority children to culturally appropriate services, including social and health services and education; and that it seek effective measures to abolish traditional practices prejudicial *inter alia* to their well-being.⁶²

2. Right to life, liberty and security of the person

11. The HR Committee noted in 2003 that the death penalty was mandatory for a number of crimes and extended to an excessive number of offences which did not fit the definition of the "most serious" crimes within the meaning of article 6 paragraph 2 of ICCPR. It urged the State to take measures to repeal all laws which had made it possible to impose the death penalty and also ensure compliance with article 6 paragraph 5 of ICCPR prohibiting the imposition of the death sentence for crimes committed by persons below eighteen years of age.⁶³

12. CRC and the HR Committee expressed their concern about violations of the right to life of children, *inter alia*, due to the internal armed conflict. They urged, in 2005 and 2003 respectively, that the State make every effort to reinforce the protection of the right to life, survival and development of all children, by taking effective measures to prevent extrajudicial killings of children and to investigate thoroughly all alleged cases of killing and to bring perpetrators to justice.⁶⁴

13. The Special Procedures mandate holders raised the issue of extrajudicial executions of leftist activists,⁶⁵ human rights defenders,⁶⁶ leaders and members of indigenous organizations⁶⁷ as well as journalists and reporters.⁶⁸ For example, on 28 March 2007, the Special Rapporteur on extrajudicial, summary or arbitrary executions condemned the killing on 10 March 2007 of a human rights activist who had been an interlocutor of the Special Rapporteur during his visit to the Philippines in February 2007.⁶⁹ Special Procedures mandate holders also raised the issue of extrajudicial killings in the context of the agrarian reform efforts, leading to disputes between peasants and landowners as well as armed groups.⁷⁰

14. In recent years, the HR Committee, CRC and a number of Special Procedures mandate holders have been concerned about reports of the persistent and widespread use of torture, “incommunicado detention” and solitary confinement of detainees by law enforcement officials. They raised concerns about the lack of legislation specifically prohibiting torture.⁷¹ In 2003, the HR Committee recommended that free access to a legal counsel and a doctor should be guaranteed in practice, immediately after arrest and during all stages of detention.⁷² CRC was concerned particularly for children in detention. It reiterated in 2005 its previous recommendation to prohibit and criminalize torture by law and stated that existing legislation did not provide children with an adequate level of protection against torture and ill-treatment. It requested that the State should ensure that child victims be provided with appropriate services for care, recovery and reintegration.⁷³

15. While welcoming the establishment of family courts in major cities to foster an active approach to protecting the rights of women and children against domestic violence, including incest, CEDAW remained concerned about the prevalence of violence against women. It noted with appreciation the *Anti-Rape Law* of 1997, which redefined and expanded rape from a crime against chastity to a crime against the person and implicitly recognized marital rape. However, CEDAW was concerned that the subsequent possibility for the wife, as the offended party, to forgive the crime extinguishes the criminal dimension of the action and the consequent severity of the penalty.⁷⁴

16. In 2005, CRC was alarmed at the high level of crime; persistent violations of the rights of children in conflict with the law; the overall deficiencies in the administration of the Philippine juvenile justice system; the high number of persons below 18 in detention; and alleged cases of torture, abuse (including sexual abuse) and other forms of degrading treatment to which they were subjected.⁷⁵

17. In 2006, CEDAW expressed its concern about the precarious situation of rural and indigenous women, as well as of Muslim women in the autonomous region of Mindanao. CEDAW noted in particular the lack of access to adequate health services, education, clean water and sanitation services and credit facilities. It was also concerned about women’s limited access to justice in cases of violence, especially in the conflict zones, and the lack of sanctions against perpetrators. CEDAW called upon the State to pay special attention to the needs of rural women, indigenous women and Muslim women living in the autonomous region of Mindanao, and to ensure that they have access to health care, social security,

education, clean water and sanitation services, fertile land, income-generation opportunities and participation in decision-making processes. CEDAW also recommended that the State ensure these women's access to justice through the provision of legal aid, and that steps be taken to prosecute perpetrators of violence.⁷⁶

18. The HR Committee, CEDAW and CRC noted with concern numerous instances of trafficking of women and children, both within the country and across its borders. In 2003, the HR Committee encouraged the State to ensure gender-specific training to sensitize the officials dealing with victims of trafficking.⁷⁷ CEDAW recommended in 2006 that the State further strengthen bilateral, regional and international cooperation with countries of origin, transit and destination so as to address the issue of trafficking in women more effectively.⁷⁸ CRC welcomed in 2005 the measures taken to prevent trafficking and protect victims, such as the establishment of Anti-Illegal Recruitment Coordination Councils, the Trade Union Child Labour Advocate initiative and the establishment of an Executive Council to suppress trafficking in persons particularly of women and children. CRC expressed its concern about factors contributing to trafficking activities, such as persistent poverty, temporary overseas migration, growing sex tourism and weak law enforcement. CRC urged the State to review its domestic laws on the protection of children against sexual exploitation, and provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children.⁷⁹

19. In 2005, CRC reiterated its concern at the high number of children living in the streets, highlighting their particular vulnerability to various forms of violence and abuse, including sexual abuse and exploitation, economic exploitation and substance abuse.⁸⁰

20. The 2005 and 2006 reports of the Secretary-General to the Security Council on children and armed conflict listed the Philippines as one of the 11 countries of concern in which grave violations against children have been documented.⁸¹ In response to the protection needs of children affected by armed conflict, the Philippines reportedly continued to implement a presidential order establishing a comprehensive programme for children involved in armed conflict, with specific protection mandates for affected children.⁸²

3. Administration of justice and the rule of law

21. The HR Committee was concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against leftist activists, human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, it was concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms had been violated. The Committee recommended in 2003 that the State adopt legislative and other measures to prevent such violations and ensure effective enforcement of the legislation.⁸³

22. The issue of impunity was also raised by a number of Special Procedures mandate holders. For example, the Special Rapporteur on extrajudicial, summary or arbitrary executions noted that no one had been convicted in the cases involving leftist activists, and only six cases involving the death of journalists have resulted in convictions.⁸⁴ In 2007, the Special Representative on the situation of human rights defenders noted that in most cases of communications relating to alleged killings sent to the State, preliminary measures of investigation had been taken but no perpetrators of violations had yet been brought to justice.⁸⁵

4. Freedoms of expression, association and peaceful assembly, and right to participate in public and political life

23. The 1987 Constitution guarantees the right to freedom of speech, of the press and freedom of assembly and association. However, freedom of speech is subjected to criminal laws punishing libel and slander, and the *Public Assembly Act* of 1995 requires a mayor's permit prior to the holding of a public assembly as long as the assembly is not held in "freedom parks", inside a private property, or on campuses of state universities.⁸⁶ In 2006, the Philippines informed that the sole justification for a limitation to the rights of free speech and assembly would be the danger of a "serious evil to public safety, public morals, public health, or any other legitimate public interest".⁸⁷

24. During recent years, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression as well as the Special Representative of the Secretary-General on the situation of human rights defenders noted with concern the insecurity surrounding journalists, reporters and those attempting to protect human rights in the Philippines, and sent communications relating to alleged arrests and charges pressed against, for example, journalists for rebellion or libel, as well as alleged raids of the editorial office and printing press of a newspaper or of a radio station.⁸⁸ The Philippines has denied most of these allegations.⁸⁹

5. Right to social security and to an adequate standard of living

25. CEDAW expressed its concern about the inadequate recognition and protection of the reproductive health and rights of women in the Philippines. It was concerned at the high maternal mortality rates, particularly the number of deaths resulting from induced abortions, high fertility rates, inadequate family planning services, the low rate of contraceptive use and the difficulties of obtaining contraceptives. In 2006, CEDAW urged the State to take concrete measures to enhance women's access to health care, in particular to sexual and reproductive health services.⁹⁰

26. CRC was concerned, despite the legislative and other measures taken by the State, about environmental problems, such as air and water pollution and environmental degradation which have serious consequences for children's health and development. As regards access to safe drinking water and sanitation, the Committee was concerned about regional disparities.⁹¹ Also concerning water pollution, communications were sent to the State by the Special Rapporteur on the right to food and the Special Rapporteur on the effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, for example about the operations by a private mining company, which allegedly contaminated sea water with cyanide, and about activities of a multinational mining company, which allegedly released a flood of toxic silt in a river. In the first case, the Philippines informed that it had undertaken investigations, temporarily suspended the activities of the company and set up a fact finding commission.⁹²

27. As regards the right to adequate housing, communications were sent to the State during the last years by the Special Rapporteur on promoting the realization of the right to adequate housing, concerning alleged forced evictions, large-scale house demolitions and relocations in connection with the development of a railway line, and by the Special Rapporteurs on adequate housing and on the human rights of indigenous people regarding the situation of 115 Manobo families who were reportedly forcibly evicted from their homes. In the first case, the Special Rapporteur on the right to adequate housing noted that all his

concerns had not been addressed in the Philippines response, and recommended continued dialogue between the State and the families affected for the resolution of the situation.⁹³ In the second case of Manobo families, the Philippines replied that the eviction was carried out in accordance with the law.⁹⁴

6. Minorities and indigenous peoples

28. In 2003, the HR Committee and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people noted important steps made with the adoption of the *IPRA* in 1997 and the subsequent establishment of the National Commission on Indigenous Peoples, but remained concerned about the lack of effective and slow pace implementation of the legislation. Both bodies recommended that positive measures should be expanded to include land rights issues.⁹⁵

29. In 1997, CERD expressed its concern (in connection with article 5 (d) (v) of ICERD) at reports of forced evictions and displacement of indigenous peoples in development zones, as well as reports that specific groups of indigenous peoples had been denied by force the right to return to some of their ancestral lands.⁹⁶ In 2007, CERD sent an early warning and urgent action procedure in which it welcomed the adoption in 1997 of the *IPRA* which *inter alia* required the free, prior and informed consent of indigenous communities for any development projects on their ancestral lands. However, CERD noted with concern that the *Act* had not been implemented to date and that the 1998 *Implementing Rules and Regulations*, revised in 2002 and 2006, had allegedly reduced the rights granted to indigenous peoples by the *IPRA*.⁹⁷

30. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples sent to the State a number of communications together with the Special Representative of the Secretary-General on the situation of human rights defenders regarding the case of members, leaders and defenders of indigenous peoples, who were subject to attacks, threats and intimidation to prevent them from carrying out their activities.⁹⁸ In addition, the Special Rapporteur on the human rights of indigenous peoples noted in 2007 that the main areas of concern pointed out in the report of his 2003 visit to the Philippines remained unaddressed: for example, the National Commission on Indigenous Peoples continues to be underfunded, and the rate at which Certificate Ancestral Domain Titles (CADT) are granted is still very limited.⁹⁹

31. In 2004, the Working Group on Minorities received reports concerning the plight of the Sama Dilaut.¹⁰⁰ It also received concerns expressed about plantation businesses setting up in the traditional lands of the Higaonon people of Mindanao, known as Lumads, and that poverty, lack of secure land tenure and lack of effective implementation of the *IPRA* were causing deprivation.¹⁰¹ In 2005, the situation of the Bangsamoro community in the Philippines and of the importance they attached to protecting their ancestral domains was reported to the Working Group on Minorities.¹⁰²

7. Migrants

32. In 2004, the Philippines responded to a request for information sent by the Special Rapporteur on the human rights of migrants, regarding measures adopted in relation to recommendations following the Special Rapporteur's visit in May 2002.¹⁰³ The Philippines informed the Special Rapporteur about actions taken to further strengthen the protection of overseas workers, which included for example the deployment of social and medical

specialists, a more efficient pre-departure orientation seminar, the establishment of a loan guarantee fund, enhanced education and training for overseas workers and their dependents and adoption of measures to improve the gathering and exchange of relevant information.¹⁰⁴

33. While commending the conclusion of bilateral agreements and the memoranda of understanding on migrant workers' rights with some countries and regions, and the programme of pre-departure and support services for overseas Filipino workers, CEDAW remained concerned, as highlighted also by UNHCR,¹⁰⁵ at the continued feminization of migration. CEDAW urged the State to continue reaching bilateral agreements and memoranda of understanding with countries and regions to which Filipino women migrate. It also encouraged the State to address the root causes of women's migration, including through the creation of conditions necessary for sustainable development and of safe and protected jobs for women as a viable economic alternative to migration or unemployment.¹⁰⁶ In 2002, the Special Rapporteur on the human rights of migrants noted that given the magnitude of the phenomenon in the country, there was a need to address seriously the social costs and effects of migration, including issues such as the adverse effects of migration on children as well as tackling the reintegration of overseas Filipino workers.¹⁰⁷

8. Internally displaced persons

34. The HR Committee was concerned at continuing reports of displacement of persons and evacuation of populations, including indigenous groups, in areas of counter-insurgency operations. The Committee recommended in 2003 that the State take urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with its human rights obligations.¹⁰⁸ In this regard, the Representative of the Secretary-General on internally displaced persons, as also highlighted by UNHCR,¹⁰⁹ addressed the need for implementation of concrete strategies and programmes supporting durable solutions, whether voluntary return, local integration or resettlement in safety and dignity, as well as access to income-generating and development programmes for the internally displaced population in Mindanao.¹¹⁰

9. Human rights and counter-terrorism

35. In 2007, the Special Rapporteur on the promotion and protection of human rights while countering terrorism raised concerns regarding the "*Act to Secure the State and Protect our People from Terrorism*", so-called "*Human Security Act of 2007*", namely the definition of 'terrorist crimes', which is overly broad and therefore at variance with the principle of legality; the strict application of a penalty of 40 years' imprisonment, which may undermine judicial discretion in individual cases and may result in a disproportionate punishment due to the broad definition of terrorist acts; the competence of various bodies authorized to review detention of an individual since some of these are members of the executive rather than independent judicial bodies; and the restrictions on movement, including the imposition of house arrest where the legal basis is simply 'in cases where evidence of guilt is not strong' rather than positive suspicion or a higher evidentiary threshold.¹¹¹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

36. The Special Rapporteur on extrajudicial, summary or arbitrary executions noted in 2007 that human rights abuses are taking place in a context of multiple armed conflicts that have been persisting for decades.¹¹²

37. The Special Rapporteur on the human rights of migrants acknowledged the efforts undertaken at the national level to tackle the problem of trafficking and smuggling of persons. The Special Rapporteur was also impressed by the wealth of civil society organizations working for the promotion and protection of the human rights of migrants and by the good communications between the Government and civil society on this issue.¹¹³

38. The Representative of the Secretary-General on internally displaced persons found that there was considerable awareness among the Philippines' authorities of the situation of internal displacement and that a number of steps had been taken to address the problem, in particular at the policy level. The challenge was one of ensuring the implementation of these policies on the ground.¹¹⁴

39. CRC acknowledged that the natural disasters caused by tropical storms and several typhoons at the end of 2004 devastated the infrastructure of several provinces giving rise to a growing number of economic and social difficulties. Domestic instability caused by, *inter alia*, political uncertainties, adversely impacted overall human rights development in the State.¹¹⁵

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

A. Pledges by the State

40. In its Voluntary Pledges in support of its candidacy to membership of the Human Rights Council, submitted on 19 April 2006 and 18 April 2007, the Philippines presented its objective to, *inter alia*, continue to play an active role in upholding the rights and welfare of disadvantaged and vulnerable groups; continue to promote constructive engagement of the Council with civil society; and continue to contribute to the Special Procedures and Treaty Bodies.¹¹⁶ In its declaration on 22 June 2006 during the first session of the Human Rights Council, the Philippines informed of its intent to adhere to the OP-CAT.¹¹⁷

B. Specific recommendations for follow-up

41. The Special Rapporteur on extrajudicial, summary or arbitrary executions recommended the elimination of extrajudicial executions from counter-insurgency operations, the investigation and prosecution of those committing extrajudicial executions and other serious crimes, as well as the reform and implementation of the witness protection programme.¹¹⁸

V. CAPACITY BUILDING AND TECHNICAL ASSISTANCE

42. As endorsed by the State, and based on the analysis of the Common Country Assessment, the 2005-2009 United Nations Development Assistance Framework (UNDAF) for the Philippines, using a human rights-based and gender-responsive approach, has identified key strategic areas to which the United Nations in the Philippines believes it can contribute: macroeconomic stability; broad-based and equitable development; basic social services; good governance; environmental sustainability; and conflict prevention and peace-building.¹¹⁹

Endnotes

¹ Unless indicated otherwise, the status of ratifications of instruments listed below may be found in Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006, ST/LEG/SER.E.25; complemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs, <http://untreaty.un.org/>.

² International Convention on the Elimination of All forms of Racial Discrimination.

³ International Covenant on Economic, Social and Cultural Rights.

⁴ International Covenant on Civil and Political Rights.

⁵ First Optional Protocol to the International Covenant on Civil and Political Rights.

⁶ Second Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

⁷ Convention on the Elimination of All Forms of Discrimination against Women.

⁸ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁰ Convention on the Rights of the Child.

¹¹ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

¹² Declaration: "1. The minimum age for voluntary recruitment into the Armed Forces of the Philippines is 18 years, except for training purposes whose duration shall have the students/cadets/trainees attain the majority age at the completion date; 2. There is no compulsory, forced or coerced recruitment into the Armed Forces of the Philippines; and, 3. Recruitment is exclusively on a voluntary basis."

¹³ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

¹⁴ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

¹⁵ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁶ Convention on the Rights of Persons with Disabilities.

¹⁷ Optional Protocol to the Convention on the Rights of Persons with Disabilities.

¹⁸ International Convention for the Protection of All Persons from Enforced Disappearance.

¹⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

²⁰ Include 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

²¹ These Conventions and Protocols are: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Convention (III) relative to the Treatment of Prisoners of War; Convention (IV) relative to the Protection of Civilian Persons in Time of War; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). Source: Switzerland, Federal department of foreign affairs, <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.

²² International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour and Convention; Convention No.105 concerning the Abolition of Forced Labour, Convention No.87 concerning Freedom of Association and Protection of the Right to Organise; Convention No.98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No.100 concerning Equal

Remuneration for Men and Women Workers for Work of Equal Value; Convention No.111 concerning Discrimination in Respect of Employment and Occupation; Convention No.138 concerning Minimum Age for Admission to Employment; Convention No.182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

²³ HR Committee, Concluding observations, CCPR/CO/79/PHL, 30 October 2003, para. 4.

²⁴ See <http://www2.ohchr.org/english/bodies/ratification/12.htm>.

²⁵ CRC, Concluding Observations, CRC/C/15/Add. 259, 3 June 2005, para. 3; CEDAW, Concluding Observations, CEDAW/C/PHI/CO/6, 25 August 2006, para. 5; UNICEF, UPR submission, p. 4.

²⁶ UNICEF, UPR submission, p. 4.

²⁷ CRC, 2005, *op.cit.*, para. 9.

²⁸ CEDAW, 2006, *op.cit.*, para. 9.

²⁹ *Ibid*, para. 11.

³⁰ *Ibid*, para. 12.

³¹ CERD, Concluding Observations, CERD/C/30/Add. 34, adopted in 1997, para. 20.

³² A list of national human rights institutions (NHRIs) with accreditation status granted by the International Coordination Committee of NHRIs (ICC), is included as an annex in the forthcoming report of the Secretary general on national institutions for the promotion and protection of human rights (A/HRC/7/69) and the report of the Secretary general on the process currently utilized by the ICC to accredit NHRIs in compliance with the Paris Principles and ensure that the process is strengthened with appropriate periodic review and on ways and means of enhancing participation of NHRIs in the work of the Human Rights Council (A/HRC/7/70).

³³ CERD, 1997, *op. cit.*, para. 10.

³⁴ CRC, 2005, *op. cit.*, para. 12.

³⁵ *Ibid*.

³⁶ *Ibid*, para. 13.

³⁷ CRC, 2005, *op.cit.*, para. 10.

³⁸ CEDAW, 2006, *op. cit.*, para. 6.

³⁹ See the letters to the Minister of Education of the Philippines concerning the national implementation of the World Programme, addressed by the UN High Commissioner for Human Rights together with the Director-General of UNESCO (9January 2006) and on behalf of the United Nations Inter-Agency Committee on Human Rights Education (10 December 2007).

⁴⁰ The Philippines Plan is available on OHCHR's website at:

<http://www2.ohchr.org/english/issues/education/training/docs/actions-plans/Philippines.pdf>

⁴¹ Committee on the Elimination of Racial Discrimination.

⁴² Committee on Economic, Social and Cultural Rights.

⁴³ Human Rights Committee.

⁴⁴ Committee against Torture.

⁴⁵ Committee on the Elimination of Discrimination Against Women.

⁴⁶ Committee on the Rights of the Child.

⁴⁷ Committee on Migrant Workers.

⁴⁸ In its letter sent to the State on 24 August 2007, CERD asked clarification and comments from the State by 31 December 2007 on the following issues:

- Reasons why the National Commission on Indigenous Peoples has failed to register the Certificate of Ancestral Domain Title of the Subanon;

- Reports according to which the mining concession granted to TVI Pacific was issued without the prior consent of the Subanon community, or its duly authorized representatives, in violation of the Indigenous Peoples Rights

Act of 1997. Provide information on how the Siocon Council of Elders was granted representative status for the Subanon community;

- Information according to which amendments introduced in 2002 and 2006 to the 1998 Implementing Rules and Regulations impose restrictions in relation to the time-frame and process required to obtain the free and prior informed consent the phrase again of indigenous communities which are not in conformity with the customs, laws and traditional practices of these communities;

- CERD also requested information on the measures adopted by the State to protect members of the Subanon community against acts of hatred and violence as well as information on the number of complaints about such acts, the measures taken to investigate such complaints, and the number and nature of sentences, if any, imposed on perpetrators, as well as the assistance provided to the victims. The early warning and urgent action procedure letter is available on: <http://www.ohchr.org/english/bodies/cerd/early-warning.htm>

⁴⁹ Report of the Special Rapporteur on migrants, E/CN.4/2003/85/Add.4.

⁵⁰ Report of the Representative of the Secretary-General, E/CN.4/2003/86/Add.4.

⁵¹ Report Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, E/CN.4/2003/90/Add.3.

⁵² See A/HRC/4/20/Add. 3 (Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions - Mission to the Philippines).

⁵³ A/HRC/8/Future.1, *op. cit.*, para. 2.

⁵⁴ The questionnaires included in this section are those which have been reflected in a report by a Special Procedure mandate holder.

⁵⁵ - Special Rapporteur on the right to education (A/HRC/4/29): Questionnaire on the right to education of persons with disabilities Report of the Special Rapporteur on the right to education, the right to education of persons with disabilities sent in 2006)

- Special Rapporteur on the human rights of migrants (A/HRC/4/24): Questionnaire on the human rights of migrants on border control and measures to reduce/address irregular migration; expulsion; conditions for admission/stay; rights of migrants; and the protection of migrants sent on 8 and 9 September 2006

- Special Rapporteur on trafficking in persons, especially in women and children (A/HRC/4/23): Questionnaire on Forced marriages in the context of trafficking in persons, especially women and children Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children sent on 26 July 2006.

- Special Representative on human rights defenders (E/CN.4/2006/95/Add.5): Questionnaire aimed at identifying the main areas of progress and the remaining challenges that need to be addressed in relation to the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms sent in June 2005.

- Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15): Questionnaire on the human rights of indigenous peoples sent in August 2007

- Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67) : Joint questionnaire on demand for commercial sexual exploitation and trafficking and demand for sexual services deriving from exploitation sent on 25 and 26 July 2005.

- Special Rapporteur on the right to education (E/CN.4/2006/45): Questionnaire on girl's right to education sent in 2005.

- Working Group on the use of mercenaries as a means of violating human rights(A/61/341): Questionnaire on Mercenaries sent in mid-November 2005.

-Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31): Questionnaire on the Sale of Children's organs sent on July 2006.

- Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78): Questionnaire on Child pornography on the Internet sent on 30 July 2004.

- Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9): Questionnaire on the Prevention of child sexual exploitation sent on 29 July 2003.

-Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprise (A/HRC/4/35/Add.3) : Questionnaire to identify policies and practices by which states regulate, adjudicate and otherwise influence corporate actions

⁵⁶ Special Rapporteur on the right to education in 2006: Questionnaire on the right to education of persons with disabilities A/HRC/4/29, para. 47; Special Rapporteur on trafficking in persons, especially in women and children, 26 July 2006: Questionnaire on Forced marriages in the context of trafficking in persons, especially women and children A/HRC/4/23, para. 14; Special Rapporteur on trafficking in persons, especially in women and children, 25 July 2005: Questionnaire on Demand for commercial sexual exploitation and trafficking E/CN.4/2006/62, para. 24; Special Rapporteur on the right to education in 2005: Questionnaire on girl's right to education, E/CN.4/2006/45. para. 89; Special Rapporteur on the sale of children, child prostitution and child pornography, 24 July 2006: Questionnaire on the Sale of Children's organs A/HRC/4/31, para. 24; Special Rapporteur on the sale of children, child prostitution and child pornography, 29 July 2003: Questionnaire on the Prevention of child sexual exploitation, E/CN.4/2004/9, para. 4.

⁵⁷ See OHCHR priority areas on country engagement strategies and partnerships described in the OHCHR Plan of Action and High Commissioner's Strategic Management Plan 2006-2007 (pages 13-15).

⁵⁸ OHCHR 2007 Annual Report (forthcoming).

⁵⁹ OHCHR Annual Reports 2004 (pages 35, 149, 150,154,192,199 and 219); 2005 (pages 154,155,187 and 211); 2006 (pages 22, 34, 70, 71 and 120) and 2007 (forthcoming).

⁶⁰ OHCHR Annual Reports 2004 (pages 22 and 223); 2005 (pages 15, 24, 40, 179 and 225); 2006 (page 158) and 2007 (forthcoming).

⁶¹ HR Committee, 2003, *op. cit.*, para. 18.

⁶² CRC, 2005, *op. cit.*, paras. 92-94.

⁶³ HR Committee, 2003, *op. cit.*, para. 10.

⁶⁴ CRC, 2005, *op. cit.*, paras. 23-27; HR Committee, *op. cit.*, para. 11.

⁶⁵ See A/HRC/8/Future. 1, *op. cit.*

⁶⁶ See E/CN.4/2006/95/Add. 5, para. 1352; A/HRC/4/37/Add. 1, para. 556.

⁶⁷ See A/HRC/6/15/Add. 3, para. 34.

⁶⁸ See A/HRC/4/27/Add. 1, paras. 515, 517, 522 ; E/CN. 4/2006/55, paras. 803, 806, 807, 809, 811.

⁶⁹ See A/HRC/7/45 (Progress on reports and studies relevant to cooperation with representatives of the United Nations rights bodies / Report of the Secretary-General).

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- ⁷⁰ See A/HRC/8/Future. 1, *op. cit.*
- ⁷¹ See for example A/HRC/4/25/Add. 1, para. 294; Special Rapporteur on torture, Communications to and from Governments, E/CN. 4/2005/62/Add. 1, paras. 1331, 1333, 1334 and 1341; E/CN. 4/2006/Add. 1, para. 361; A/HRC/4/33/Add. 1, paras. 214, 215 and 216.
- ⁷² HR Committee, 2003, *op. cit.*, para. 12.
- ⁷³ CRC, 2005, *op. cit.*, para. 39.
- ⁷⁴ CEDAW, 2006, *op. cit.*, paras. 15-16.
- ⁷⁵ CRC, 2005, *op. cit.*, para 89.
- ⁷⁶ CEDAW, 2006, *op. cit.*, paras. 29-30.
- ⁷⁷ HR Committee, 2003, *op. cit.*, para. 13.
- ⁷⁸ CEDAW, 2006, *op. cit.*, paras. 19-20.
- ⁷⁹ CRC, 2005, *op. cit.*, paras. 85-87.
- ⁸⁰ CRC, 2005, *op. cit.*, paras. 83-84.
- ⁸¹ 2005 and 2006 reports of the Secretary-General to the Security Council on children and armed conflict (A/59/695-S/2005/72 of 9 February 2005 and A/61/529-S/2006/826 of 26 October 2006).
- ⁸² 2006 SG report to the SC on children and armed conflict, A/61/529-S/2006/826 of 26 October 2006.
- ⁸³ HR Committee, 2003, *op. cit.*, para. 8.
- ⁸⁴ See A/HRC/8/Future. 1, *op. cit.*
- ⁸⁵ See A/HRC/4/37/Add. 1, para. 557.
- ⁸⁶ See E/CN. 4/2006/95/Add.5, para. 1348.
- ⁸⁷ *Ibid.*
- ⁸⁸ See A/HRC/4/27/Add. 1, paras. 513, 518, 519 and 524.
- ⁸⁹ A/HRC/4/25/Add. 1, paras. 295 and 296; A/HRC/4/37/Add.1, paras. 543-555.
- ⁹⁰ CEDAW, 2006, *op. cit.*, paras. 27-28.
- ⁹¹ CRC, 2005, *op. cit.*, paras. 60-61.
- ⁹² See A/HRC/4/30/Add. 1, para. 57.
- ⁹³ See Special Rapporteur on the right to adequate housing, Communications to and from Governments, A/HRC/4/18/Add. 1, paras. 48, 50, and 51.
- ⁹⁴ See Special Rapporteur on the right to adequate housing, Communications to and from Governments, E/CN. 4/2005/48/Add. 1, para. 29; Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, E/CN. 4/2006/78/Add. 1, para. 65.
- ⁹⁵ HR Committee, 2003, *op. cit.*, para 16; E/CN. 4/2003/90/Add. 3, paras. 60 and 61 (Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people).
- ⁹⁶ CERD, 1997, *op. cit.*, para 17.
- ⁹⁷ The early warning and urgent action procedure letter is available on:
<http://www.ohchr.org/english/bodies/cerd/early-warning.htm>. See also this compilation, above, para. 14.
- ⁹⁸ See also this compilation para. 13 above.
- ⁹⁹ See A/HRC/6/15/Add. 3, paras. 14-16.
- ¹⁰⁰ See E/CN.4/Sub.2/2004/29.
- ¹⁰¹ *Ibid.*
- ¹⁰² See E/CN.4/Sub.2/2005/27.

¹⁰³ See Special Rapporteur on the human rights of migrants, Communications to and from Governments, E/CN.4/2006/73/Add. 1, paras. 245-253.

¹⁰⁴ *Ibid.*

¹⁰⁵ UNHCR submission to the UPR, p. 2, citing CEDAW, 2006, *op. cit.*, paras. 21-22.

¹⁰⁶ CEDAW, 2006, *op. cit.*, paras. 21-22.

¹⁰⁷ Special Rapporteur on migrant workers, E/CN.4/2003/85/Add.4, para.80.

¹⁰⁸ HR Committee, 2003, *op. cit.*, para. 15.

¹⁰⁹ See UNHCR, UPR submission, p. 2, citing E/CN.4/2003/86/Add.4 (Report of the Special Representative of the Secretary-General on internally displaced persons).

¹¹⁰ See E/CN.4/2003/86/Add.4, para. 37 (Report of the Special Representative of the Secretary-General on internally displaced persons).

¹¹¹ See A/HRC/6/17/Add.1, paras. 64-97 (Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism).

¹¹² See A/HRC/4/20/Add.3, *op. cit.* (Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions - Mission to the Philippines).

¹¹³ See E/CN.4/2003/85/Add.4, paras. 76 and 79 (Report of the Special Rapporteur on the human rights of migrants).

¹¹⁴ See E/CN.4/2003/86/Add.4, page 2 (Report of the Representative of the Secretary-General on internally displaced persons).

¹¹⁵ CRC, 2005, *op. cit.*, para. 5.

¹¹⁶ See <http://www.un.org/ga/60/elect/hrc/philippines.pdf>.

¹¹⁷ See compte rendu analytique de la 8ème séance, A/HRC/1/SR.8.

¹¹⁸ A/HRC/8/3/Add.2, paras. 66-70.

¹¹⁹ UNDAF 2005-2009, Manila 2004.