



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

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Summary record of the 1408th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 27 April 2016, at 10 a.m.

Chair: Mr. Modvig

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of the Philippines (CAT/C/PHL/3; CAT/C/PHL/Q/3 and Corr.1)

1. *At the invitation of the Chair, the delegation of the Philippines took places at the Committee table.*
2. **Mr. Corvera** (Philippines), introducing the State party's third periodic report and highlighting the accolades that its anti-torture initiatives had earned from international human rights and anti-torture organizations, said that torture had no place in the country's system of government and democracy. The Government had achieved some important milestones in the period under review. In 2009 it had adopted the country's first anti-torture law, a law on crimes against international humanitarian law, genocide and other crimes against humanity, and a comprehensive law on women's rights. A law that broadened the application of recognizance with a view to relieving prison overcrowding and improving conditions of detention had followed in 2012, and an amendment to the 2006 law on juvenile justice and welfare that prohibited the committal of minors under 16 years of age in 2013.
3. A number of new institutional mechanisms had been established to support the implementation of the new laws. An inter-agency committee had been created to monitor cases of human rights violations, including cases of torture; its responsibilities included ensuring compliance with the 90-day deadline for action imposed under the new Anti-Torture Act upon all institutions involved in case resolution. Human rights desks operated by the Bureau of Jail Management and Penology (BJMP) had been installed in every jail throughout the country to provide a more immediate response to complaints of torture from inmates. The Therapeutic Community Modality Programme overseen by the BJMP was now running in over 250 jails and the BJMP was working to ensure strict compliance with a State memorandum ordering the confiscation and destruction of sticks, paddles, belts and other devices reportedly used in jails to inflict corporal punishment on inmates. Human rights desks had also been established within the police force, and were manned by officers authorized to perform random inspections of police custody cells and conduct private interviews with detainees that had already led to the discovery of acts of torture perpetrated by a prison official and the official's subsequent dismissal.
4. The judiciary likewise made a significant contribution to torture prevention efforts. A 2013 circular issued by the Office of the Court Administrator of the Supreme Court had authorized judges to conduct quarterly inspections of provincial and city jails, youth detention centres and youth rehabilitation centres, and several new programmes had been launched to alleviate the courts' heavy caseloads and accelerate case processing. Such initiatives included a mobile mediation and dispute resolution programme called Enhanced Justice on Wheels, and a programme designed to ease the burden on especially busy courts by reallocating a portion of their caseload to less congested courts called Assisting Courts. In addition, the Supreme Court had issued guidelines to guarantee timeliness in cases defined as "high impact" — essentially those involving drugs, minors, corruption or misappropriation — and was piloting an automated notification system that allowed for court summonses to be issued to police officers electronically. A fully automated case management system that would further enhance efficiency and transparency in court operations was at the development stage.

5. As provided for under the Anti-Torture Act, awareness-raising and capacity-building activities for law enforcement officers, medical personnel, public officials and others involved in the custody, interrogation or care of persons deprived of their liberty were also central to the Government's torture prevention efforts. Work in that area might involve organizing and participating in forums, advocacy activities, focus group discussions and congressional debates on anti-torture and human rights-related legislation, dialogue with representatives of the military and the church, and support for grass-roots initiatives.

6. The Government of the Philippines had ratified the Optional Protocol to the Convention within the reporting period but had yet to establish a national preventive mechanism. Although various multi-stakeholder consultations had been conducted, the related bill would not be passed under the current administration. The recent visit of the Subcommittee on Prevention of Torture had been well received and the relevant authorities were currently reviewing and verifying the resultant report and recommendations with a view to approving their publication. Nonetheless, despite its commitment and resolve, the Government was aware that incidents of torture continued to occur and, guided by the adage that one human rights violation was one too many, acknowledged the need for further advocacy work and legislative development. Its anti-torture initiatives were also underpinned by the principle of inclusive participation that was central to all efforts to promote and protect human rights and, reflecting that principle, the Anti-Torture Act had been crafted by a team of government and civil society representatives following a round of national consultations to which State prosecutors, law enforcement and military officers, NGOs and various other stakeholders had contributed. The report currently under review was likewise the fruit of cooperation between multiple stakeholders.

7. **Ms. Pradhan-Malla** (Country Rapporteur) said that, while NGO reports indicating that extrajudicial killings and enforced disappearances were not solely practices of the past were undoubtedly cause for concern, what was most worrying for the Committee was the long-standing impunity enjoyed by the police and armed forces, the dysfunctionalities of the criminal justice system and the resistance to accountability evident within the military. A low crime reporting rate and lack of convictions had been the inevitable result. The adoption of the Anti-Torture Act had created an accountability mechanism, but adequate prevention, protection and rehabilitation mechanisms were also necessary to ensure that past practices were not repeated and confidence in the system of justice was fully restored.

8. Against that backdrop, the State party's delay in establishing the national preventive mechanism required under the Optional Protocol was particularly disturbing. Noting that, although the Philippine Commission on Human Rights was empowered to visit places of deprivation of liberty, it seemingly lacked the resources needed to monitor all such facilities effectively and on a regular basis, she asked what was being done to give the Commission the functional and financial autonomy required to increase its efficacy; whether its oversight activities encompassed juvenile detention centres, asylum detention centres and psychiatric institutions, and, if not, whether the Government had any plans to extend the scope of those activities; how the Government ensured access to civil society representatives for all persons deprived of their liberty; and how the Commission's recommendations were implemented. With regard to the planned national preventive mechanism itself, she would like to know whether the relevant bill contained guarantees of efficacy, independence and adequate resources and whether, since the mechanism would apparently be administratively dependent on the Commission on Human Rights, amendments to the law governing the latter's operation would also be needed. Information about the high-level Oversight Committee created under section 20 of the Anti-Torture Act and how it contributed to the effective implementation of the Act would also be useful.

9. She had been surprised to learn that, until March 2016, there had been not a single successful prosecution under the Anti-Torture Act. Could the delegation provide an

explanation for that situation and was the lack of convictions considered a serious problem? The delegation's comments on the Government's response to specific cases of torture documented by human rights groups, such as the case of the children arrested in November 2015 prior to the Asia-Pacific Economic Cooperation summit and the case of Orlando Engo, a farmer arrested and allegedly tortured by the military in February 2016, would also be appreciated. Similarly, she would like to know what was being done to encourage victims and witnesses to come forward and to prevent acts of violence such as electric shocks, beatings, punching and submersions that, according to reports, continued to be routinely used against children in conflict with the law. Precise figures on the number of cases of torture reported and the current status of those cases would be helpful, as would an update on the case brought against former police inspector Joselito Binayug.

10. She was concerned that the multiplicity of institutions with roles and responsibilities in the processing and investigation of complaints could create confusion and undermine impartiality. Given the number of institutions already existing, she would like clarification regarding the contribution of the human rights desks established in 2010, including the number of complaints from inmates they had processed and the outcomes of those complaints, and the role of the Inter-Agency Committee on Extrajudicial Killings, Enforced Disappearance, Torture and other Grave Human Rights Violations. Since the alleged perpetrators were police officers in over three quarters of reported cases, she wondered how independence and neutrality could be maintained in the absence of clearly delineated, discrete roles.

11. Noting that similar overlaps were evident among the various institutions responsible for rehabilitation, she wondered whether the lack of a lead agency was viewed as a problem and, if so, how the Government planned to address it. She would also like information about how the exclusionary rule was applied in court and details of any measures adopted to address the knowledge and resource gaps that impeded access to justice and ensure that the fundamental legal safeguards applicable during arrest, detention and investigation were strictly respected in practice.

12. Fear of reprisals and intimidation also reportedly deterred people from seeking access to justice, especially in the case of children who were in conflict with the law. She asked whether there were any programmes aimed at empowering rights holders and encouraging them to seek access to justice.

13. It had been alleged that people were frequently arrested without a warrant or without being informed of their rights by police wearing civilian clothes. In some cases they were beaten, threatened at gunpoint, handcuffed and placed in unmarked vehicles. Some were paraded as criminal suspects in full view of their neighbours. Others were blindfolded, taken to secret detention facilities and held incommunicado. Families were occasionally unable to locate relatives who had reportedly been arrested by the police because no records were available.

14. Some torture victims had allegedly been denied access to a doctor or relatives until the bruises and wounds had begun to heal, so that documentation of injuries was difficult. Penalties were rarely imposed for violations of the rights of arrested persons or detainees because the victims were required to file a case with the courts and to submit evidence. The tendency to ignore legal safeguards and the attitude of police officers to criminal suspects and detainees paved the way for acts of torture and ill-treatment.

15. The Commission on Human Rights had reportedly discovered a police facility in the province of Laguna where torture had been systematically perpetrated until 2014. The use of secret detention facilities made it difficult to monitor conditions and rendered detainees highly susceptible to torture and ill-treatment.

16. She commended the enactment of comprehensive legislation aimed at eradicating violence against women and children, and requested information on the number of investigations, prosecutions and convictions pursuant to the legislation. She also enquired about procedures for implementing the decentralized support system.

17. Table 2 in paragraph 102 of the report provided figures for sexual abuse and rape of boys. She asked whether the Anti-Rape Law criminalized anal sex.

18. According to Table 3 concerning inhumane treatment of inmates during the period from 2007 to 2013, very few cases had been investigated and a lenient penalty of short-term suspension had been imposed in only one case. She asked whether action was being taken to address such impunity.

19. She requested data concerning the number of cases of trafficking registered with the police, the number of investigations conducted and the outcomes. The Special Rapporteur on trafficking in persons, especially women and children, had expressed concern about access to justice and compensation for victims of trafficking. She enquired about the action being taken by the State party to address that concern.

20. According to the report, the Department of Justice required an undertaking that extradited persons would not be subjected to torture in the requesting State. She asked whether the Government had established a judicial mechanism to review the sufficiency and appropriateness of diplomatic assurances in all relevant cases and whether post-return monitoring arrangements existed. She also requested details of cases in which diplomatic assurances had been provided.

21. According to the State party, 147 of the 389 applications for asylum received between 1998 and 2012 had been approved and 63 had been denied. She enquired about the grounds for acceptance or denial and the outcome in the remaining 179 cases. The Committee would also appreciate disaggregated data on the age, gender, sex and country of origin of the persons concerned.

22. She asked whether the State party had taken steps to establish universal jurisdiction over offences committed in any territory under its jurisdiction.

23. While the Committee appreciated the measures taken to criminalize corporal punishment in various institutions, it was concerned about the failure to criminalize such punishment in the home, especially since the Government had accepted a universal periodic review recommendation to that effect in 2012.

24. The Committee was also concerned about a bill before Congress that proposed lowering the minimum age of criminal responsibility, which was currently 15 years. She asked whether any measures were being taken to prevent its enactment.

25. The Committee had requested clarifications of the scope of the criminal abortion ban in question 35 of the list of issues. The State party had merely referred to provisions of the Responsible Parenthood and Reproductive Health Act of 2012 concerning free contraceptives, reproductive health services and sex education in public schools. Abortion was still banned, harsher penalties had been prescribed, the number of unsafe abortions had increased from 560,000 in 2008 to 610,000 in 2012, and ill-treatment of women and girls seeking post-abortion care was widespread. She asked what measures were being taken to respect the Magna Carta of Women, to review the ban on abortion, and to permit exceptions in cases of fetal impairment or when pregnancy endangered the woman's life or health or was the result of rape or incest.

26. She enquired about steps taken to eradicate extrajudicial killings and enforced disappearances and to close secret places of detention.

27. The Committee was concerned about the Human Security Act of 2007, which allowed officials of the Commission on Human Rights to extend the period of detention of a suspected terrorist indefinitely.

28. **Ms. Belmir** (Country Rapporteur) commended the training programmes implemented with a view to building the capacity of prosecutors and law enforcement officers to identify, investigate and prosecute acts of torture. They were assisted by a Crime Laboratory which conducted medico-legal examinations. Torture was prohibited by the Anti-Torture Act and a National Monitoring Mechanism had been established. Yet persons deprived of their liberty were still systematically exposed to the most abhorrent forms of torture. The training courses had thus failed to achieve their aim.

29. Arrests, including of children, were not systematically recorded, detainees were not brought promptly before a judge, and there was no provision in the regulations for immediate access to a lawyer. The State party was thus failing to comply fully with the provisions of article 11 of the Convention. Furthermore, suspects were frequently subjected to mental anguish with a view to extorting confessions. Although the State party's legislation made it clear that such confessions were not acceptable as evidence, many confessions obtained by means of torture had in fact been accepted in the country's courts.

30. Persons were sometimes detained without a warrant in clandestine facilities. Pretrial detention was frequently extended and legal proceedings were unduly slow. People were also losing confidence in the justice system on account of alleged corruption.

31. The Commission on Human Rights had urged various stakeholders and civil society to set up oversight mechanisms to resolve, in particular, cases of disappearance. However, it was denied access to certain places of detention, particularly those run by the military.

32. A secret detention centre in a residential neighbourhood of the province of Laguna had been used by the police to torture detainees for their own amusement. They had tested a number of torture methods in order to determine which was the most effective. More than 44 detainees had been subjected to torture and the Commission on Human Rights had revealed the scandal.

33. The State party had submitted an evasive reply to the Committee's question concerning the alleged torture of three persons by military officers belonging to the 730th Combat Group.

34. Fifty-eight people had been murdered in an election-related massacre in the province of Maguindanao in 2009. They included 21 women, who had also been subjected to sexual abuse. Justice had not yet been done in that case.

35. Darius Evangelista had been tortured in police custody and his body, bearing the evidence of torture, had subsequently been found in a river. Lenin Canada Salas had been arrested and tortured with three associates. As they had all been blindfolded, they had been unable to identify the torturers. She asked why the Crime Laboratory had failed to conduct a forensic examination.

36. No real action had been taken to address political crimes committed prior to 1999. It was essential to establish the truth and to develop rehabilitation schemes for victims of injustice.

37. She welcomed the progress made in combating violence against women. However, women were denied the crucial right to family planning. She urged the State party to provide for exceptions to the ban on abortion.

38. The age of majority should be raised from 15 to 18 years. Many juveniles who were arrested and detained were living on the street. They were interrogated without anybody to

assist them and were frequently subjected to ill-treatment and forced to sign inaccurate statements. Children were also enrolled in militias and subjected to abuse.

39. **Mr. Touzé** welcomed the legislative reforms introduced by the State party and its activities on human rights issues at national, international and regional levels. He asked the delegation for more information on the reasons behind the significant increase in cases of violence against women reported under RA 9262 between 2004 and 2012, as detailed in table 1 of the report, and for clarification of the categories mentioned in that table, such as “seduction” and “concubinage”.

40. Alternative information alleged that the conjugal visiting regime for female prisoners differed from that for male prisoners. The delegation should explain any distinction between regimes and indicate whether there were plans to offer the same conjugal rights to male and female prisoners. He asked why psychological support was not among the 20 leading reasons for prisoners consulting a doctor listed in table 10 of the report. The delegation should clarify whether psychological support was available to detainees throughout their detention.

41. He wished to know whether legal proceedings on the acts of torture committed at a secret place of detention in Laguna were expected to lead to appropriate penalties for the perpetrators. Demotion, which had allegedly been applied to a number of the perpetrators, was not a proportionate penalty. The delegation should comment on allegations that special teams established to expedite the processing of cases of extrajudicial killings, enforced disappearance, torture and other grave human rights violations had not received appropriate training. Information should be provided on measures to combat impunity.

42. **Mr. Bruni** said he wished to know the outcome of prosecution of the case of the prison official who had been found by the human rights desk of the Philippine National Police to have tortured a detainee. Dismissal from service was not an adequate punishment for committing torture. An update should be provided on the outcome of proceedings on the case of Joselito Binayug.

43. He asked how torture victims’ medical reports were made public and whether the persons concerned could deny consent for publication. Information would be appreciated on whether inspections of detention facilities by human rights desk officers were announced in advance and whether their visit reports were made public. The delegation should comment on reports that limited resources for human rights activities rendered it difficult for the human rights desk to effectively monitor places of detention.

44. Information should be provided on the results achieved by the Inter-Agency Committee on Extrajudicial Killings, Enforced Disappearance, Torture and Other Grave Human Rights Violations and the special teams established to monitor progress on such cases. The delegation should indicate the timetable for adoption of the bill criminalizing extrajudicial killings.

45. He asked what actions the Government intended to take to reduce prison overcrowding, given that the problem had been identified as a priority by the Subcommittee on Prevention of Torture on its visit to the country and that the Philippines allegedly had the highest rate of prison overcrowding in Asia. He also requested information on the status of the Prison Rape Elimination Act and on the rate of suicide in prisons, since suicide was not included in table 8 of the report among the leading causes of death among prisoners.

46. More information should be provided on the 2014 amendments to the Police Operational Procedures designed to ensure that police officers did not commit acts of torture against detainees. Given that it was prohibited for police to blindfold detainees, the delegation should account for the case of alleged torture in detention — referred to in paragraph 177 of the report — that had been dismissed by the court on the basis that the

victims were unable to identify their alleged torturers due to that illegal practice. He asked about the results achieved by the Comprehensive Rehabilitation Programme for torture victims and their families.

47. **Mr. Zhang** took note of the State party's recognition of incidents of torture in its territory. Given the investment in human rights training for various groups indicated by the tables contained in paragraph 136 of the report, he wished to know why there remained an apparent lack of prosecutions of police officers who had allegedly committed torture, and asked what steps were contemplated to correct the situation.

48. **Mr. Hani** expressed concern about House Bill No. 922 that sought to reduce the age of criminal liability from 15 to 9 years and asked how the Government was implementing the recommendation of the Committee on the Rights of the Child against lowering the age of criminal liability. More information should be provided on amendments to the 2006 Juvenile Justice and Welfare Act, which prohibited holding children in prisons, and on the Intensive Juvenile Intervention Programme for children aged 12-15 who had committed serious crimes. The delegation should describe the measures taken to reintegrate former child soldiers into society, as recommended by the Committee in its previous concluding observations (CAT/C/PHL/CO/2), and state how many children had been so reintegrated.

49. Clarification should be provided of the statement in paragraph 50 of the report indicating that the State party would welcome specific information to validate allegations of the disappearance of more than 70 persons in Central Luzon. An explanation should be given of information in the report which indicated that, in certain circumstances, a private person could make an arrest. He wished to know what measures would be taken to ensure that the national preventive mechanism had an adequate and dedicated budget and structure, even if situated within the Commission on Human Rights. He asked whether the State party was contributing to the United Nations Voluntary Fund for Victims of Torture. In the context of recovery from past armed conflict, he enquired what measures were being taken to support the integration of all communities in the State party, in particular the representation of all communities on the police force.

50. **Ms. Gaer** asked whether documentation was available on the use, before 2013, of implements, such as paddles and sticks, that had been banned under the Memorandum of 1 August 2013 and whether there had been any investigations or prosecutions in that regard. She expressed concern about the lack of effective implementation of the Anti-Torture Act, particularly the absence of prosecutions under the Act, and requested explanations to that end. What measures could be taken to guarantee that the Anti-Torture Act had a real impact on the prevalence of acts of torture committed by officials? She asked what accounted for the significant delay in obtaining accountability for torture in the Darius Evangelista case and whether only one or more officials would be tried.

51. She would like to know whether prosecutions had been brought against the officials who had maintained the operation of the Laguna detention facility, where persons had reportedly been held in secret detention. Further information was also required regarding the protracted cases involving allegations of torture of Abdul-Khan Balinting Ajid and enforced disappearance of Jonas Burgos. It was a matter for concern that, in the latter case, the onus had been placed on the family to seek justice rather than on the State to investigate. In addition, she asked what measures were taken to investigate and resolve cases of enforced disappearance in general. She also enquired what the State party was doing to ensure that perpetrators, including commanding officers, were identified and that the military played a key role in the fight against torture. Information should be provided on prosecutions carried out by the Inter-Agency Committee established pursuant to Administrative Order No. 35, since it appeared that it lacked efficiency. Did the Committee work in cooperation with the Philippine Commission on Human Rights and with the participation of civil society, and was it required to publicize its reports?

52. Further details would be appreciated on the foreign service posts set up within the framework of the gender and development focal points and on whether any were established outside the country. Did the Government extend its jurisdiction to women outside the territory and provide aid to them where necessary? She asked how many of the reported cases of violence against women recorded in the table in paragraph 86 of the report fell within the scope of the Convention. Noting that overcrowding was a factor contributing to sexual violence in prisons, she asked what measures were adopted to prevent and monitor such violence, including against men. She requested an explanation of the table in paragraph 105 of the report showing cases of inhumane treatment and wondered whether the one conviction it included had been preceded by criminal proceedings. Further information should be provided on the criminal abortion ban and on steps taken to investigate, prevent and punish any incidents of ill-treatment of women seeking post-pregnancy care in government hospitals. Highlighting the recommendation made by the Committee on the Elimination of Discrimination against Women in the report further to its inquiry under article 8 of its Convention (CEDAW/C/OP.8/PHL/1) to ensure that women experiencing abortion-related complications were not reported to the law enforcement authorities, threatened with arrest, or subjected to physical or verbal abuse, she noted the high numbers of women reportedly harassed subsequent to having undergone an abortion and requested updated information on that matter.

53. **The Chair**, speaking as a member of the Committee, said that most issues related to impediments to the effective implementation of the Anti-Torture Act. What could be done to protect medical professionals from police intimidation in order to ensure that they accurately documented the physical and medical consequences of torture, thereby contributing to the course of justice? The Anti-Torture Act should be backed by Government statements and action to signal the importance of its full and effective application and the intention to prosecute perpetrators, including commanding officers. He wondered whether the delegation agreed that such a stance would have a positive impact on the implementation of that Act.

54. Given the problems and complexity of the penitentiary system, including the absence of an independent body responsible for oversight of the whole system and the high numbers of unconvicted detainees held for long periods of time without the possibility of challenging their detention, would the Government consider a complete overhaul of the prison system?

55. He asked whether reports of the excessive use of restraint and isolation with regard to persons with mental health problems were true, whether such practices were monitored in mental health facilities, and whether a body was in place to ensure that the treatment of persons with mental disabilities was in line with standards. He further enquired whether there were plans to expand NGO participation in the national preventive mechanism with a view to giving them competence for the monitoring of places of detention.

56. **Ms. Pradhan-Malla** asked whether the legislation governing the level of compensation to be granted to victims of torture might be reviewed. She would like information on cases in which the responsibility of commanding officers had been pursued and on measures envisaged to enforce the Anti-Torture Act as it applied to accountability.

57. **Ms. Belmir** requested additional information on steps taken to improve conditions in detention facilities, including for asylum seekers and mental health patients; on the Therapeutic Community Modality Programme intended to address inmates' behaviour; and on the subsidiary penalty applicable to persons unable to pay fines. She asked whether the Recognizance Act could also be applied to persons suspected of committing acts of torture. What was done to ensure the investigation, prosecution and punishment of persons allegedly responsible for the killings of human rights defenders and journalists, and what security and protection were afforded to human rights defenders in the country?

58. **Mr. Zhang** asked for updated information on the case of the alleged torture of 17-year-old John Paul Nerio on 11 December 2010.

The meeting rose at 12.45 p.m.