



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

Distr.  
GENERAL

CERD/C/PHL/20  
8 July 2008

Original: ENGLISH

---

COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION**

**Twentieth periodic reports of States parties due in 2008**

**Addendum**

**PHILIPPINES\* \*\***

[30 June 2008]

---

\* This document contains the fifteenth, sixteenth, seventeenth, eighteenth, nineteenth and twentieth periodic reports of the Philippines, due on 4 January 1998 to 2008, submitted in one document. For the eleventh to fourteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/299/Add.12, CERD/C/SR.1218,1219 and 1231.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

### Abbreviations

ADR	-	Alternative Dispute Resolution
ADSDPP	-	Ancestral Domains Sustainable Development and Protection Plan
AFP	-	Armed Forces of the Philippines
ALS	-	Alternative Learning System
APCD	-	Asia Pacific Center on Disability
ARMM	-	Autonomous Regions of Muslim Mindanao
CADC	-	Certificates of Ancestral Domain Claim
CADT	-	Certificates of Ancestral Domain Titles
CALC	-	Certificates of Ancestral Land Claim
CALT	-	Certificates of Ancestral Land Titles
CHED	-	Commission on Higher Education
CHRP	-	Commission on Human Rights of the Philippines
CEDAW	-	Convention on the Elimination of Discrimination Against Women
COC	-	Certificates of Confirmation
CP	-	Certification Precondition
CWC	-	Council for the Welfare of Children
BESRA	-	Basic Education Sector Reform Agenda
DENR	-	Department of Environment and Natural Resources
DepEd	-	Department of Education
DND	-	Department of National Defense
DOLE	-	Department of Labor and Employment
DSWD	-	Department of Social Welfare and Development
EFA	-	Education for All
FPIC	-	Free, Prior and Informed Consent
GAD	-	Gender and Development
GDI	-	Gender-related Development Index
GEM	-	Gender Empowerment Measures
GGI	-	Gender Gap Index
HDI	-	Human Development Index
HPI	-	Human Poverty Index
HR	-	Human Rights
HRAO	-	Human Rights Affairs Office
HRE	-	Human Rights Education
IACAT	-	Inter-Agency Council Against Trafficking
ICC	-	Indigenous Peoples/Indigenous Cultural Communities
ICERD	-	International Convention on the Elimination of Racial Discrimination
ICT	-	Information and Communications Technology
IP	-	Indigenous Peoples
IPAD	-	Indigenous Peoples Affairs Desk
IPCB	-	Indigenous Peoples Consultative Body
IPRA	-	Indigenous Peoples Rights Act
IPSCO	-	Indigenous Peoples Special Concerns Office
JELAC	-	Judiciary, Executive and Legislative Council
LCR	-	Local Civil Registrar
LGC	-	Local Government Code

LGU	-	Local Government Unit
LRA	-	Land Registration Authority
MCW	-	Magna Carta of Women
MDG	-	Millennium Development Goal
MOA	-	Memorandum of Agreement
NAPOLCOM	-	National Police Commission
NBI	-	National Bureau of Investigation
NCIP	-	National Commission on Indigenous Peoples
NCRFW	-	National Commission on the Role of Filipino Women
NGO	-	Non-Governmental Organization
NSO	-	National Statistics Office
OCRG	-	Office of the Civil Registrar General
OPAPP	-	Office of the Presidential Adviser on the Peace Process
PCFC	-	Philippine Credit and Finance Corporation
PLWH	-	People Living with HIV
PNP	-	Philippine National Police
PPGD	-	Philippine Plan for Gender-responsive Development
PWD	-	Persons with Disability
RA	-	Republic Act
RBA	-	Rights-based Approach
SFI	-	Schools First Initiative
SROE	-	Standing Rules of Engagement
TFIPC	-	Task Force for Indigenous Peoples Children
UCPPP	-	Unregistered Children Project of Plan Philippines
UN	-	United Nations
UN-DESA	-	United Nations Division on Economic and Social Affairs
UN-ESCAP	-	United Nations Economic and Social Commission for Asia and the Pacific
UNICEF	-	United Nations Children's Fund
VAW	-	Violence Against Women
VAWC	-	Violence Against Women and their Children
WEF	-	World Economic Forum

## CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations .....		2
Introduction .....	1 - 14	5
<b>PART I</b>		
A. General information about the reporting State .....	15 - 31	7
The land and its people .....	15 - 23	7
Conditions for human development .....	24 - 27	9
Gender and development .....	28 - 31	12
B. Constitutional, legislative, judicial and administrative framework governing the implementation of the Convention .....	32 - 64	13
General political structure .....	32 - 38	13
Legal framework for human rights protection .....	39 - 42	15
Specific constitutional provisions on the promotion and protection of human rights .....	43 - 57	15
General framework to implement the State's commitment to the Convention .....	58 - 64	19
<b>PART II</b>		
INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION .....	65 - 210	20
Article 2 .....	76 - 101	22
Article 3 .....	102 - 115	27
Article 4 .....	116 - 122	30
Article 5 .....	123 - 177	31
Article 6 .....	178 - 199	43
Article 7 .....	200 - 210	47

## Introduction

1. The consolidated report comprises the 15<sup>th</sup> to 20<sup>th</sup> periodic reports covering the period 1997 to 2008. It covers the last year in office of President Fidel V. Ramos, whose leadership bannered the rights of the vulnerable sectors in Philippine society as enshrined in the 1987 Constitution that the previous presidency of President Corazon C. Aquino had set into motion. The report also covered the period under President Joseph E. Estrada, who was hailed as the champion of Filipino masses by his supporters. It likewise overlaps the ascendance into power of President Gloria Macapagal Arroyo, who was proclaimed President of the Republic of the Philippines after the People Power Revolt of 2001, and who won in the May 2004 presidential elections. Her term expires in May 2010.
2. The report covers the legislative, judicial, administrative and other measures as required in the International Convention on the Elimination of All Forms of Racial Discrimination. It endeavors to abide by the general guidelines on the form and contents of reports to be submitted by States Parties under Article 9, Paragraph 1 of the Convention and the revised guidelines adopted by the Committee at its 475<sup>th</sup> meeting on April 9, 1980, incorporating the additional guidelines for the implementation of Article 7 adopted at the 571<sup>st</sup> meeting on March 17, 1982 and as revised at the 984<sup>th</sup> meeting on March 19, 1993, at the 1354<sup>th</sup> meeting on August 16, 1999 and at the 1429<sup>th</sup> meeting on August 21, 2000. It also responds to the observations and recommendations in the Concluding Observations to the consolidated reports covering the 11<sup>th</sup> to 14<sup>th</sup> Philippine periodic reports from 1989 to 1996.
3. The 1996 consolidated report submitted in March 1997 focused on reiterating the constitutional provisions of the 1987 Constitution for the promotion and protection of human rights as well as other legislative, judicial, administrative and other measures that were already highlighted in the previous reports. However, reiteration was made for the purpose of clearly understanding the succeeding measures promulgated by the Government to include the creation of the national human rights institution in the Philippines, i.e., Commission on Human Rights of the Philippines, and the Office of the Ombudsman, the Comprehensive Agrarian Reform Program of the Department of Agrarian Reform, the issuance of Certificates of Ancestral Domain Claim (CADCs) and Certificates of Ancestral Land Claim (CALCs) by the Department of Environment and Natural Resources, as well as the Social Reform Agenda spearheaded by the Ramos Administration and continued by the succeeding administrations.
4. The present report highlights the passage of more issue-based statutes that addresses the basic needs, problems and aspirations of the vulnerable sectors, specifically that of the Filipino Indigenous Peoples.
5. It will be recalled that the 1997 report reiterated the constitutional provisions as well as the various legislative, judicial, administrative and other measures, which were cited in the previous report, to provide in greater detail information on any new laws, policies and measures implemented by the Ramos governments during the period covered by the report, with regard to the promotion and protection of the human rights and fundamental freedoms of the Filipino people, giving particular emphasis on the question of racial discrimination.

6. As in the previous reports, the Philippine Government wishes to emphasize 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. The type of racial discrimination, similar to what was practiced in South Africa when the policy of apartheid was not yet dismantled, has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner. Hence, 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 21 December 1965 and 15 September 1967, respectively.

7. 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. The previous report concluded that this disparity in development, as well as the prevailing differential access to land, education or employment, resulted in apparent racial distinctions or perceived instances of racial discrimination.

8. 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, where the selection of one language "Filipino" from among 86 languages and dialects in the country, as the basis for a common national language was done democratically by referendum.

9. 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.

10. The Philippine Government reiterates once again that it supports the Convention and that racial discrimination as defined therein constitutes a grave violation of human rights and fundamental freedoms. It also supports the international consensus on the need to prevent the occurrence of racism, racial discrimination and discriminatory practices or policies on racial grounds wherever and whenever they might occur. To this end it adopted and ratified the Convention and enshrined in its Constitution the obligation to respect, uphold and protect all human rights and fundamental freedoms under a regime of law (art. 2, section 11).

11. In addition, it enacted Presidential Decree No. 1350-A of 17 April 1978, which continues to be in effect and which has the primary purpose of implementing the provisions of the Convention in the country and providing for specific penalties for a class of offences constituting violations of the Convention in the Philippines.

12. The enactment of Republic Act 8371, otherwise known as the “Indigenous Peoples’ Rights Act (IPRA) of 1997, reinforced the assurance against discrimination or exclusion from development of Indigenous Peoples/Indigenous Cultural Communities (ICCs) and Muslim Filipinos. Said law specifies penal sanctions for violation of its provisions.

13. The Philippine Government therefore maintains in this report that discrimination based on race, color or ethnic origin is non-existent in the Philippines because Filipinos have essentially the same racial and ethnic origins. It is noteworthy to reiterate at this juncture that such practice has never been implemented officially nor is it present in an informal form in the country.

14. At the same time, and as with previous reports, this report continues to reflect the importance given by the Constitution and the Philippine Government to the rights and welfare of the ICCs and the Muslim Filipinos in the Philippines. The latter part of this report is an update on the legislative, judicial and administrative measures, which are being taken by the Philippine Government to implement its commitment to address the special development needs of the Muslim Filipinos and other indigenous cultural communities with whom the majority of Filipinos share the same racial, ethnic and cultural heritage.

## **PART I**

### **A. General information about the reporting State**

#### **The land and its people**

15. The Philippines is an archipelago located in Southeast Asia at the ocean fringe of the Asian mainland. The archipelago is composed of 7,107 islands covering a land area of 30 million hectares with a coastline of 36,289 kilometers. It lies at the heart of the coral triangle and is the global center of marine biodiversity.

16. Volcanic in origin, the Philippines lies along the Pacific Ring of Fire and is prone to earthquakes and volcanic eruptions. It also straddles the Asia-Pacific typhoon belt and has to contend, on the average, with 20 typhoons annually. The Philippines is also at the western end of the area where the El Nino/La Nina phenomena occur. Natural calamities and disasters pose major challenges to development.

17. The Philippine archipelago lies at the crossroads of the Asia-Pacific Region. In times past, it was part of the great trade route from China and Japan through Southeast Asia to the Indian sub-continent and Arabian peninsula. Consequently, the people of the Philippine islands had continuous cultural and commercial interactions with peoples of various races, cultures and civilizations that ply the ancient trade routes. The influences of other cultures and civilizations are present in the culture of the people of the Philippine islands. However, Spanish colonization interrupted interactions with other peoples, cultures and civilizations in the region. In the ensuing period of more than 300 years, the Philippines was Christianized and westernized. Today, Philippine culture is a mix of influences from eastern and western cultures resting on the original Malayo-Polynesian culture.

18. The Philippines is a country of indigenous peoples of Malay racial stock and speaking languages belonging to the Malayo-Polynesian language group. There are 110 ethnolinguistic groups scattered throughout the country and 86 distinct languages that are mutually unintelligible to each other. Out of the cacophony of languages, “*Tagalog*”, the language of the largest ethnolinguistic group, was selected democratically by referendum during the American colonial period to serve as base for the common national language “*Filipino*”. The national language is a formal language used in official communications and taught in schools. It is a composite language that incorporates words and expressions from the other languages spoken in the Philippines as well as constructed words. In this way, it differs from “*Tagalog*”.

19. “*Tagalog*”, however, has become the “*lingua franca*” of the country. As a result of internal migration, other major languages such “*Cebuano*”, “*Ilocano*”, “*Ilongo*” have also become local “*lingua franca*”. Thus, in many parts of the country, the people have become multilingual, speaking the national *lingua franca* - *Tagalog*, the local *lingua franca* - *Cebuano*, *Ilocano*, *Ilongo* etc., and the local language. This would be in addition to *Filipino* and English, which are both official languages and are taught in school.

20. The vast majority of indigenous groups in the Philippines, such as the *Tagalogs*, the *Cebuanos*, the *Ilocanos*, the *Ilongos*, the *Bicolanos*, the *Kapangpangans*, the *Warays*, the *Panggalatoks* etc., have been Christianized and have adopted modern lifestyles. Other major indigenous groups, such as the *Maranaos*, the *Maguindanaos* and the *Tausugs*, 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. In recognition of this fact, and as affirmative action to promote and protect the human rights of small indigenous groups in a fast changing world, the Philippines enacted the Indigenous Peoples Rights Act (IPRA) 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.

21. The Philippines is a country of diverse cultures with its multi-linguistic, multiethnic, multi-faith and geographically dispersed population estimated at 89 million as of 2007. It is estimated that 17 % of the population fall within the definition of Indigenous Peoples under the IPRA.

22. In the central and western part of Mindanao are peoples bound by a common Muslim faith<sup>1</sup> with their own distinct traditions. With the creation of the Autonomous Region in Muslim Mindanao, Muslim Filipino population in Central and Western Mindanao,<sup>2</sup> has been estimated at 4,428,730 or 5% of the total Philippine population in 2007.

---

<sup>1</sup> Islam predates Christianity in the Philippines by at least 400 years. The Muslim areas always remained completely independent from Spain, but finally fell to the Americans.

<sup>2</sup> Composed of the Provinces of Maguindanao, Lanao del Sur, Basilan, Sulu and Tawi-Tawi and the Islamic City of Marawi.

23. To accurately map the ethnolinguistic distribution of indigenous peoples of the Philippines and to establish a national disaggregated data, the Philippine Government, through the National Census and Statistics Office (NSO) and the National Commission on Indigenous Peoples (NCIP), is undertaking measures to include ethnicity as a variable for the 2010 national population census.

### **Conditions for human development**

24. Attaining the aspirational goal of social progress and better standards of life set by the Universal Declaration of Human Rights is a serious challenge in a developing country like the Philippines. The Philippines, in particular, is faced by two active armed insurgencies that impact negatively on development. Furthermore, the Philippines is prone to natural disasters and other calamities brought about by earthquakes, volcanic eruptions, typhoons and other weather extremes such as the El Nino/La Nina phenomena.

25. Natural disasters and calamities divert scarce resources that otherwise would go to economic development. They can cause a phenomenon called “transient poverty”. In this regard, income poverty remains a serious challenge with 36 % of the population living below the poverty line. Nevertheless, in terms of human poverty as measured by the UNDP Human Poverty Index (HPI), the Philippines performs respectably, ranking 37 among 108 developing countries.

26. Moreover, in terms of the UNDP Human Development Index, the Philippines ranks 90 out of 177 countries covered by the UNDP Human Development Report. In fact, the Philippines is in the upper ranges of the Medium Human Development category with an HDI value of 0.771, where the threshold to High Human Development is HDI value of 0.800 and the lower range of Medium Human Development is HDI value of 0.500.

#### **Comparative table of Human Development Index**

Threshold to High Human Development	0.800
<b>Philippine HDI</b>	<b>0.771</b>
East Asia and Pacific (HDI Average)	0.771
Developing Countries (HDI Average)	0.691
World (HDI Average)	0.743
Lower Range of Medium Human Development	0.500

27. The Philippines also performs well in other indices covered by the UNDP HDR as follows:

(a) In terms of inequality in income or expenditure, the Philippine Gini Index of 44.5 is respectable when compared to other countries within and outside the Southeast Asia region;

### Comparative table of inequality in income or expenditure index

(**Gini Index** where 0 = absolute inequality and 100 = absolute equality)

Malaysia	49.2
China	46.2
<b>Philippines</b>	<b>44.5</b>
Singapore	2.5
Thailand	42.0
United States	40.8

(b) In terms of life expectancy and child mortality, the Philippines has achieved respectable improvements in the life of its people, despite the annual ravages of nature that brings destruction and loss of life. Filipinos can expect a fuller life with higher life expectancy and lower child mortality;

### Comparative table of life expectancy and mortality

#### Life expectancy at birth

East Asia and the Pacific	71.1 years
<b>Philippines</b>	<b>70.3</b>
Developing countries	65.5
World	66.0

#### Infant mortality rate (per 1000 live births)

<b>Philippines</b>	<b>25</b>
East Asia and the Pacific	25
Developing countries	57
World	52

#### Under-5 infant mortality rate (per 1000 live births)

East Asia and the Pacific	31
<b>Philippines</b>	<b>33</b>
Developing countries	83
World	76

(c) In terms of empowerment through education, the Philippines is a model for developing countries with an adult literacy rate of 92.6%, a youth literacy rate of 95.1% and a gross enrollment ratio of 81.0%. Education has empowered the people. **Through education, people are better able to promote and protect their human rights;**

## **Comparative tables on adult literacy, youth literacy and gross enrolment**

### **Adult literacy (% aged 15 and above)**

<b>Philippines</b>	<b>92.6</b>
East Asia and the Pacific	90.7
Developing countries	77.6
World	82.4

### **Youth literacy (% aged 15-24)**

East Asia and the Pacific	97.8
<b>Philippines</b>	<b>95.1</b>
Developing countries	85.6
World	86.5

### **Combined gross enrolment ratio**

<b>Philippines</b>	<b>81.1</b>
East Asia and the Pacific	69.4
Developing countries	64.1
World	67.8

(d) In terms of health and sanitation, the Filipino people enjoy a richer life through longer life expectancy and lower child mortality through better health and sanitation programs;

## **Comparative tables on health and sanitation**

### **One-year olds fully immunized against tuberculosis**

<b>Philippines</b>	<b>91%</b>
East Asia and the Pacific	87
Developing countries	83
World	83

### **Population using improved sanitation**

<b>Philippines</b>	<b>72%</b>
East Asia and the Pacific	50
Developing countries	49
World	59

### **Population using improved water source**

<b>Philippines</b>	<b>85%</b>
East Asia and the Pacific	79
Developing countries	79
World	83

(e) In terms of improved access to food, the Philippines has reduced the incidence of undernourishment among the population from 26% to 18% between the periods 1990/92 and 2002/04 despite the fact that the Philippines is a net importer of food. The present rate is comparable to the rate developing countries and the world although still below the rate for East Asia and the Pacific.

#### Comparative table on population undernourished

	1990/92	2002/04	Decline
<b>Philippines</b>	<b>26</b>	<b>18</b>	<b>8%</b>
East Asia and the Pacific	17	12	5%
Developing countries	21	17	4%
World	20	17	3%

#### Gender and development

28. An important indicator of conditions that guarantee the exercise of human rights under equal terms is the situation of women. There are two models for measuring gender equality, the UNDP model and the World Economic Forum (WEF) model.

29. The UNDP HDR measures this in terms of Gender-related Development Index (GDI) and Gender Empowerment Measures (GEM). Following are comparative tables on gender and development:

(a) In terms of GDI, the Philippines ranks 77 out of 157 countries. Females in the Philippines enjoy higher life expectancy, adult literacy and gross enrollment ratio than their male counterparts;

#### Comparative tables for gender-related development index

##### Life expectancy

Females	-	73.3
Males	-	68.9

##### Adult literacy

Females	-	93.6
Males	-	91.6

##### Gross enrolment ratio

Females	-	83.0
Males	-	79.0

##### Estimated earned income

Females	-	PPP US\$ 3,883
Males	-	PPP US\$ 6,375

(b) In terms of GEM, the Philippines ranks 45 out of 93 countries. Females enjoy a higher ratio of 0.61 than males in estimated earned income. There are more female professional and technical workers, 61 % of total, than males. There are also more female legislators, senior officials and managers, 58 % of total, than males.

### Comparative table for gender empowerment measures

Ratio of estimated female to male earned income	0.61
Percent of female professional and technical workers	61%
Percent of female legislators, senior officials and managers	58%

30. The World Economic Forum (WEF) uses a different model - the Gender Gap Index (GGI) - to measure gender inequality using four criteria: economic participation and opportunity; educational attainment; health and survival; and, political empowerment. The WEF Global Gender Gap Report 2007-2008 states that the GGI “*points to possible role models by revealing countries that, regardless of the level of resources available, have divided these resources equitably between women and men*”.

31. Under the GGI model, the Philippines comes out as an unmistakable role model not only for developing countries but for developed countries as well. Specifically, the Philippines ranks no. 6 out of 128 countries, the only Asian and developing country among the top ten countries. As stated in the WEF Report, “*the Philippines is once again the only Asian country to have closed the gender gap on both education and health and is one of only six in the world to have done so. The Philippines’ scores on political empowerment improved further, as did some of its economic indicators such as estimated income, labour force participation and income equality for similar work.*”

### Philippine ranking under the WEF GGI model

	Rank		Score (0=inequality; 1=equality)	
	2007	2006	2007	2006
Gender gap index	6	6	0.7629	0.7516
Sub-indices				
Educational attainment	1	1	1.0000	1.0000
Health and survival	1	1	0.9796	0.9796
Economic participation and opportunity	2	4	0.7891	0.7573
Political empowerment	14	16	0.2829	0.2695

## B. Constitutional, legislative, judicial and administrative framework governing the implementation of the Convention

### General political structure

32. The Republic of the Philippines is a democratic and republican State with a presidential form of government, an elected bicameral legislature, and a multi-party system. Executive power is exercised by the President of the Philippines with the assistance of a Cabinet. The President is both the head of State and of the Government. The Vice-President assists the President in the performance of her/his duties and responsibilities and may also be appointed as the head of one of the executive departments.

33. At the national level, the Philippines has three co-equal branches of government: the Executive, the Legislature and the Judiciary.

34. At sub-national levels, governance is assumed by the local LGUs in each administrative area, i.e. province,<sup>3</sup> city,<sup>4</sup> municipality<sup>5</sup> and *barangay*<sup>6</sup> (“villages). Each local government office is composed of both elective and appointive officials. The elective officials include the head and vice-head in each administrative area, i.e. governor and vice-governor for the province, mayor and vice-mayor for the city and municipality, and chairman for the *barangay*; and the members of the councils, i.e. *Sangguniang Panlalawigan* (Provincial Council), *Sangguniang Panlungsod* (City Council) and *Sangguniang Barangay* (Village Council).

35. Legislative power is vested in the Congress of the Philippines consisting of the Senate and the House of Representatives. The Senate is composed of 24 senators elected at large for a term of six (6) years. The House of Representatives is composed of members elected from legislative districts and through a party-list system.

36. The country’s democratic structure and processes are further enhanced by the constitutional provisions on social justice and human rights, protection of indigenous peoples, labor, women and children and other vulnerable sectors and the strengthening of local autonomy of the local government units (LGUs). Republic Act (RA) No. 6710, otherwise known as The *Local Government Code of 1991*, devolves the responsibility and budget for the delivery of basic services in agriculture, health, social welfare and development, public works, environment and natural resources to the LGUs.

37. Legislative power at the sub-national levels is vested in the *Sanggunian* (Council) at each level. Each LGU has a development council, which assists the *Sanggunian* in formulating their respective comprehensive and multi-sectoral development plans.

---

<sup>3</sup> The province consists of a cluster of municipalities, or municipalities and component cities, and as a political and corporate unit of government serves as a dynamic mechanism for the development process and effective governance of local government units within its territorial jurisdiction.

<sup>4</sup> The city, consisting of more urbanized and developed barangays, serves as a general purpose government for the coordination and delivery of basic, regular, and direct services and effective governance of the inhabitants within its territorial jurisdiction.

<sup>5</sup> The municipality, consisting of a town center and a group of barangays, serves primarily as a general purpose government for the coordination and delivery of basic, regular and direct services and effective governance of the inhabitants within its territorial jurisdiction.

<sup>6</sup> The barangay, as the basic political unit in both rural and urban settings, serves as the primary planning and implementing unit of government policies, plans and programmes, projects and activities in the community and as a forum wherein the collective views of the people may be expressed, crystallized and considered and where disputes may be amicably settled. It also serves as a springboard for elevating the people’s concerns to a higher level of governance.

38. Judicial power is vested in the Supreme Court of the Philippines and lower courts. The decisions of the Supreme Court are binding on all lower tribunals. The other courts under the Supreme Court are: the Court of Appeals composed of 51 Justices with one Presiding Justice; Regional Trial Courts; the Municipal Circuit Trial Courts, which have jurisdiction over one or more municipalities grouped together; and the Municipal Trial Courts established in every city not forming part of the metropolitan area.

### **Legal framework for human rights protection**

39. The national normative framework for human rights protection consists of the Constitution, legislation, court decisions or jurisprudence, and customs and traditional practices.

40. The Constitution is the supreme and basic law of the country and provides the general framework and principles by which the State is run. It is the standard on which national legal instruments, government actions and decisions are based and evaluated. Important elements of the Constitution include the Bill of Rights, the articles on human rights and social justice, accountability of public officers, citizenship, suffrage, national economy and patrimony.

41. The Constitution provides for the establishment and separation of powers of the three major branches of government - the Executive, Judiciary, and a bi-cameral Legislature.<sup>7</sup> It specifies the mandates and powers of the major institutions responsible for human rights promotion and protection.

42. The Constitution provides that, “*The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.* (Article XIII, Section 1)”.

### **Specific constitutional provisions on the promotion and protection of human rights**

43. The 1987 Philippine Constitution declared as a policy that the “State values the dignity of every human person and guarantees full respect for human rights” (art. 2, section 11). It is also the national policy to protect the right to health of the people (art. 2, section 15) as well as their right to a balanced and healthful ecology (art. 2, section 16). The State is mandated to protect the rights of workers and promote their welfare (art. 2, section 18) and to guarantee equal access to opportunities for public service (art. 2, section 26).

44. Everyone’s right to equality before the law in the enjoyment of civil, political and social rights is enshrined in the all-embracing Bill of Rights of the 1987 Constitution (art. 3). To strengthen the Governments concern for the protection and promotion of human rights and fundamental freedoms, the Constitution also mandates the Congress of the Philippines to give the “highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities and remove cultural

---

<sup>7</sup> The Legislature, known as Congress is composed of two separate chambers, the House of Representatives (lower house) and the Senate (upper house).

inequities by equitably diffusing wealth and political power for the common good” (art. 13, section 1). The “promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance” (art. 13, section 2).

45. For the first time, the State declared as a national policy that it “recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development” (art. 2, section 22).

46. Subject to the provisions of the 1987 Constitution, the State is also mandated to “protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being” (art. 12, section 5). The same provision states that “Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain”. The State shall also “recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions” and shall consider these rights in the formulation of national plans and policies” (art. 14, section 17).

47. Furthermore, the Constitution mandated the creation of “Autonomous Regions in Muslim Mindanao (ARMM) and in the Cordilleras (Cordillera Administrative Region) consisting of provinces, cities, municipalities and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines” (art. 10, section 15-21).

48. The Constitution emphasized that the special attention given to the indigenous cultural communities should not be taken as an indication that they are treated separately from the rest of the population. Rather it is intended to ensure that their cultural identity and interests are acknowledged and that as Filipinos, they are drawn within the protective mantle of the fundamental law of the land.

49. Finally, the Constitution provided for the creation of the Commission on Human Rights (art. 13, section 17). The Commission is an independent body which is mandated by the Constitution to investigate on its own or on complaint by any party, all forms of human rights violations, including those involving civil and political rights. The Commission is also responsible for the provision of appropriate legal measures for the protection of the human rights of all persons within the Philippines, as well as Filipinos living abroad, and for the provision of preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection.

50. The Office of the Ombudsman is an independent and fiscally-autonomous body created by the Constitution as the “people’s champion” responsible for the investigation and prosecution of graft and corruption cases against those holding public office, including men in uniform.

51. The CHRP is a vigilant and vocal guardian of human rights including civil and political rights, holding public hearings, conducting investigations and issuing advisories on specific cases and national issues such as the protection of human rights even during a state of national emergency. It provides assistance to victims, recommends cases for prosecution, and monitors the progress of cases through the criminal justice system.

*Five pillars of the criminal justice system*

52. The criminal justice system is built upon five pillars namely - law enforcement,<sup>8</sup> prosecution,<sup>9</sup> judiciary,<sup>10</sup> correction and community.<sup>11</sup> The criminal justice system has legal mechanisms for the protection of indigenous peoples, women, youth, and other vulnerable groups.

53. The *Katarungang Pambarangay System* (Village Justice System) was created under the *Local Government Code of 1991* (LGC) to assist in the settlement of disputes between those residing in the same *barangay* (village). It institutionalizes the use of alternative dispute resolution<sup>12</sup> (ADR) systems and remains to be the most important mechanism for reaching amicable settlement.

---

<sup>8</sup> The law enforcement pillar consists of the Philippine National Police (PNP) and the National Bureau of Investigation (NBI).

<sup>9</sup> The prosecution pillar consists of two national government agencies, namely, the National Prosecution Service (NPS), an organic unit of the Department of Justice (DOJ), and the Office of the Ombudsman, an independent agency created under the Constitution as the “peoples champion” to prosecute responsible for graft and corruption cases against public officials and personnel, including men in uniform.

<sup>10</sup> The judiciary pillar consists of a four-tiered court system including the Supreme Court, Court of Appeals, Sandiganbayan (a special court, with jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees) and regional, metropolitan and municipal courts. Family courts are now well-established within the judicial system.

<sup>11</sup> The correction pillar is composed of two (2) major components: the institution-based, comprised of prisons and jails administered by the Bureau of Corrections of the DOJ, by the Bureau of Jail Management and Penology of the DILG, and by the local government units, and the community-based corrections system, i.e. probation and parole, which are being managed by the Parole and Probation Administration (PPA) of the DOJ. The Department of Social Welfare and Development (DSWD) is responsible for the restorative part of the correction system. It maintains centers for the care and restoration of youth and women who are in conflict with the law. In the Philippines, the community is recognized as a pillar of the criminal justice system and Non-Government Organizations (NGOs) and Civil Society Organizations (CSOs) play an increasingly active role in the criminal justice system.

<sup>12</sup> The law likewise directs the active promotion on the use of ADR as an important means to achieve speedy and impartial justice and de-clog court dockets. The law defines ADR as any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a court or an officer of a government agency, in which a neutral third party participates to assist in the resolution of issues. ADR includes arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or any combination of these schemes.

54. The diverse indigenous peoples' justice systems and conflict resolution institutions, which are based on traditional practices and serve as alternative dispute mechanisms, are recognized in Republic Act 8371, otherwise known as the "Indigenous Peoples' Rights Act (IPRA) of 1997."

55. Presidential Decree 1083 provides for the codification of Muslim Personal Laws<sup>13</sup> and the recognition of the Shari'a justice system based on Islamic religious law, thus acknowledging the perspective of Muslim Filipinos of what is just and lawful in civil relationships. Criminality continues to remain within the purview of the Revised Penal Code and other laws and not the Shari'a justice system. Muslim justice is based on religion.

56. The Philippines has a robust and vocal civil society composed of non-government organizations of diverse advocacies, trade unions, faith-based organizations, media, academe and the private sector. They play an increasingly active role in the domestic human rights system both as instruments of accountability and as partners in providing support services. The domestic climate presents many channels for them to report, express their opinions, and interact with their constituents, government, and the international community.

#### *Acceptance of international human rights norms*

57. The Philippines is one of original members of the United Nations and subscribes to the UN Charter. The Philippines was also a member of the very first UN Human Rights Commission and a member of the select group of countries led by Eleanor Roosevelt that prepared the draft of the Universal Declaration of Human Rights. The Philippines is also one of the first States to have ratified seven of the core international human rights treaties<sup>14</sup> currently in force and other human rights-related instruments. Commitment to these instruments and the Universal Declaration on Human Rights is enshrined in the 1987 Philippine Constitution, notably Art. XIII Sec. 17(1)

---

<sup>13</sup> Muslim justice is based on religion. Muslim tradition involves strong roles played by religious leaders in informally settling disputes. Justice is guaranteed to all regardless of any social and political biases. Among Muslim Filipinos, informal settlements particularly on cases involving family and property matters are preferred over the formal (court) processes. Shari'a court judges themselves have assumed the role of customary elders that citizens can seek help to resolve conflicts, an indication of the pervasive informal nature of Muslim dispute resolution traditions that are deeply imbedded in practice.

<sup>14</sup> The seven core international treaties on human rights are: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW).

creating an independent Commission on Human Rights (CHRP),<sup>15</sup> which is tasked, *inter alia*, to monitor government compliance with its human rights obligations under international treaties. The provisions on the nature, mandate and functions of the CHRP pre-date the 1991 Paris Principles. In fact, the CHRP was among those that drafted the 1991 Paris Principles.

### **General framework to implement the State's commitment to the Convention**

58. The Philippine Government reiterates its support to the International Convention on the Elimination of All Forms of Racial Discrimination ("Convention") and has always upheld the sanctity and universality of human rights.

59. The enactment of Republic Act No. 8371, otherwise known as the "Indigenous Peoples Rights Act of 1997 (IPRA)" and Republic Act No. 9054, otherwise known as "An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, Amending for the Purpose Republic Act No. 6734, Entitled 'An Act Providing for the Autonomous Region in Muslim Mindanao' as Amended," and Republic Act No. 8425, otherwise known as "An Act Institutionalizing the Social Reform and Poverty Alleviation Program, Creating for the Purpose the National Anti-Poverty Commission, Defining its Powers and Functions, and for Other Purposes" provide assurance against discrimination or exclusion from development. These statutes are reflective of the Philippine government's sincerity and commitment to address the enjoyment of the political, social, cultural and political rights of the Indigenous Peoples and Muslim Filipinos.

60. NCIP administers programs for the Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) in the country. It has assisted in the formulation of Ancestral Domains Sustainable Development and Protection Plans (ADSDPP). In partnership with civil society, the NCIP also constituted Provincial Consultative Bodies and has assisted Educational Assistance grantees as well as provided legal services and various socio-economic and cultural projects.

61. The ADSDPP adheres to the rights-based approach (RBA) in governance and development with the Indigenous Peoples being fully responsible in formulating their ADSDPPs in accordance with their customary laws, practices, traditions and institutions. Moreover, the Indigenous Peoples Consultative Body (IPCB), a multi-level and independent council of IP leaders, serves as the collective voice of Indigenous Peoples in advocating their concerns and aspirations at all levels.

---

<sup>15</sup> The CHRP has the power to (1) investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights; (2) provide appropriate legal measures for the protection of human rights of all persons and provide for preventive measure and legal aid services to the underprivileged whose human rights have been violated or need protection; (3) Exercise visitorial powers over jails, prisons, or detention facilities; (4) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights; (5) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families; (6) monitor the Philippine Government's compliance with international treaty on human rights.

62. Challenges confronting Indigenous Peoples/Indigenous Cultural Communities are handled by the NCIP through the application of relevant provisions of the IPRA, the “Rules and Pleadings, Practice and Procedure before the NCIP”, the NCIP “Guidelines on Free, Prior and Informed Consent” (FPIC), and the regular existing legal instruments.

63. Indigenous Peoples have full access to mainstream governance and freely exercise their rights to self-governance under the law.

64. The Local Government Code of 1991 and the IPRA provide governance measures to allow Indigenous Peoples to upgrade their socio-economic development, including the provision of adequate educational and health services, as well as the protection of their physical security and welfare.

## **PART II**

### **INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

65. The Philippine Government supports and abides by the provisions of the Convention, and addresses the human rights of all Filipinos without restrictions, prohibitions, exclusions, or preferences. It will progressively implement the provisions of Republic Act 8371 and Republic Act 9054 in order for all Indigenous Peoples to be at par with fellow Filipinos in dealing with the challenges of development.

66. To effectively and efficiently address the general situation of Indigenous Peoples, the National Statistics Office (NSO) and the National Commission on Indigenous Peoples (NCIP) are taking measures to include ethnicity as a variable for the 2010 population census by the national Government. This is intended to establish a national disaggregated data for Indigenous Peoples.

67. In 2002, the Office of the Civil Registrar General (OCRG/NSO) in partnership with the NCIP, Council for the Welfare of Children (CWC) - Task Force for Indigenous Peoples Children (TFIPC), Unregistered Children Project of Plan Philippines (UCPPP) and the Indigenous Peoples Special Concerns Office (IPSCO) under the Office of the President initiated a series of consultations to formulate the Rules and Regulations Governing Registration of Acts and Events Concerning the Civil Status of Indigenous Peoples. On May 14, 2004, the Office of the Civil Registrar General approved Administrative Order No. 3, Series of 2004.

68. The said Administrative Order upholds the rights of every IP individual to a name and history. It registers their civil status and upholds their national identity. It recognizes the customary ways of indigenous peoples in the registration of birth, marriage, death, dissolution of marriage, and revocation of the dissolution of marriage. It effectively implements the provisions of the Indigenous Peoples Rights Act.

69. Currently the Administrative Order is being reviewed by the NSO, NCIP, and the Local Civil Registrars to address policy and institutional gaps identified in its preliminary implementation. Efforts to better address the customary requirements of the Indigenous Peoples

as well as to attain efficiency in the facilitation of the registration process by the Local Civil Registrars (LCRs) and the NCIP are also being undertaken. In this regard, Field Personnel of the NCIP have been designated as deputized agents in the registration process.

70. The NCIP also issues Certificates of Confirmation (COC) of tribal membership, which enhances the efficient identification of IP members by agencies and offices of Government and other entities with programs directed to address IP concerns. This has proven to be very effective vis-à-vis the National Police Commission's (NAPOLCOM) admission requirements for IPs joining the Philippine National Police (PNP) by granting height waiver to IP members entering the PNP. NAPOLCOM requires IP applicants to submit their COCs issued by the NCIP to determine their ethnicity. This has been an effective tool to ward off the submission of fraudulent COCs by applicants who pretend to be IPs. Other uses of COCs include, among others, requirements for scholarship grants, travel documents/passports, legitimizing customary marriages, Bureau of Jail Management and Penology, and Armed Forces of the Philippines height waiver requirements, other employment opportunities granted to IPs, and livelihood grants.

71. In order to come up with a qualitative disaggregated data of Indigenous Peoples, the United Nations Children's Fund (UNICEF) in partnership with the NCIP conducted from November 2006 to April 2007 a rapid field assessment of the situation of IP women, youth and children in seventeen (17) provinces nationwide. Project findings include the need to ensure that basic services reach the IP communities, which had been considerably affected by the lack representation in governance, specifically at the local legislative councils and other local policymaking bodies where they can equitably represent the needs, problems and aspirations of ICCs/IPs.

72. Another quantitative data gathering was made from May 2004 to July 2006 by the CHRP in partnership with the NCIP through the implementation of the Metagora Project which sought to measure the level of awareness and fulfillment of Indigenous Peoples' rights to their ancestral domains and lands. The study came out with vital information as to the challenges confronting Indigenous Peoples in claiming and enjoying their rights to their ancestral domains. The project was also able to arrive at quantitative and qualitative tools and methodologies in measuring and obtaining the level of fulfillment of the rights of Indigenous Peoples to their ancestral domains.

73. In 1998, the Office of the Civil Registrar General also passed Administrative Order No. 2, Series of 1993 pursuant to Executive Order No. 157 entitled, "An Act to Establish a Civil Registration System for Muslim Filipino," in consonance with Presidential Decree 1083, otherwise known as the Code of Muslim Personal Laws. The Executive Order was in response to the call of former President Fidel V. Ramos for a 100% level of civil registration by the year 2000. The effort is in consonance with the Social Reform Agenda by the incumbent administration.

74. Administrative Order No. 2 was a result of a series of comprehensive consultations with learned Muslim Leaders. It seeks to fulfill the policy of registration for all, regardless of ethnic or religious affiliation, but always mindful of the customs and traditions of fellow Filipinos from these communities.

75. Administrative Order No. 2 also aims to assist civil registrars in registering vital events as required by law, including divorce, revocation of divorce, and conversions to Islam. The registration procedures and provisions are also expected to standardize the civil registration system in the Philippines resulting in current, complete and accurate vital statistics in the country.

## Article 2

### Eliminating racial discrimination

76. The Philippine Government supports and abides by the provisions of the Convention, and addresses the human rights of all Filipinos without restrictions, prohibitions, exclusions, or preferences.

77. The Philippines reiterates the various information under this item, which was already given in the previous reports. In particular, it has been pointed out that the Philippines' constitutional and legal system, its adherence to the democratic way of life and government and its commitment to the promotion and protection of human rights and fundamental freedoms provide the framework for the condemnation and prohibition of racial discrimination against persons, groups of persons or institutions by public authorities and institutions, both at the national and the local level.

78. In keeping with the constitutional mandate provided under Sections 11, Article II of the 1987 Philippine Constitution declaring that "the State values the dignity of every human person and guarantees full respect for human rights," and in its efforts to comply with its international treaty obligations under the Convention, the Philippines reviewed its policies, laws and regulations to ensure the adequate development and protection of all its peoples.

79. It is the State's policy to promote social justice in all phases of national development (Art. II Section 10) and promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all. (Art. II, Sec. 9).

80. Constitutional provisions promote and protect the role of women in nation-building and ensure the fundamental equality before the law for all; the right to health and a balanced and healthful ecology, the rights and welfare of workers, the rights of women and children, the elderly, and indigenous cultural communities, among others. It pays particular attention to, *inter alia*, the family, non-governmental, community-based and sectoral organizations, rural development and agrarian reform, indigenous cultural communities and human rights.

81. Consequently, the following statutes were enacted to bolster anti-discriminatory measures, viz:

- Republic Act 8425, otherwise known as the "Social Reform and Poverty Alleviation Act".
- RA 9257 Expanded Senior Citizen's Act of 2003 - For Senior citizens.

- RA 7877 Declaring Sexual Harassment Unlawful in the Employment, Education, or Training Environment and for Other Purposes (Anti-Sexual Harassment Act of 1995).
- RA 6725 An Act Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article One Hundred Thirty-Five of the Labor Code , as Amended.
- RA 6955 An Act to Declare Unlawful the Practice of Matching for Marriage to Foreign Nationals on a Mail-Order Basis and for Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefor.
- RA 7192 An Act Promoting the Integration of Women as Full and Equal Partners of Men in Development and Nation- Building and for Other Purposes.
- RA 7322 An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector, Amending for the Purpose Section 14-A of Republic Act 1161, as Amended, and for Other Purposes.
- RA 8353 An Act Expanding the Definition of the Crime of Rape, Reclassifying the same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code, and for Other Purposes.
- RA 9208 Anti-Trafficking in Persons Act of 2003 - For Women and children.
- RA 7277 An Act Providing for the Rehabilitation, Self-Development and Self- Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes (Magna Carta for Disabled Persons) - for persons with disabilities.
- RA 7279 An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establishing the Mechanism for its Implementation and for Other Purposes (Urban Development Housing Act of 1992) - for urban poor.
- RA 8042 An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of the Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes - for migrant workers.
- RA 9344, An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department of Justice, Appropriating Funds Therefore and For Other Purposes, (Juvenile Justice and Welfare Act of 2006) - For children in conflict with the law.
- RA 9231 Elimination of the Worst Forms of Child Labor Act of 2003 - For children.
- RA 9255 An Act Allowing Illegitimate Children to Use the Surname of their Father - For children.

- RA 9262 Anti-Violence Against Women and their Children Act of 2004 - For women and children.
- Republic Act No. 7610, or “An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes”.
- RA 7309 An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes - For victims of unjust imprisonment/ detention and victims of crimes.
- RA 7438 Defining Certain Rights of Persons, Arrested , Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof - For arrested persons/detainees.

82. Republic Act 8425, otherwise known as the “Social Reform and Poverty Alleviation Act” was signed into law on 11 December 1997 by President Fidel V. Ramos. Said law institutionalized the social reform and poverty alleviation program, which were cited in previous reports. A more detailed discussion on this statute is presented in succeeding sections of the report.

83. Government efforts on economic, social and cultural rights are linked very closely with its plans and programs towards the attainment of its Millennium Development Goal (MDG) targets. Laws such as the Labor Code, the Social Reform Agenda Act, and the Family Code, *inter alia*, complemented by strategic plans, policies, and programs such as the Medium Term Development Plan and the Anti-Poverty Strategy, have ensured the implementation of these of these laws.

84. President Gloria Macapagal-Arroyo has dedicated 10-billion pesos for 2008 towards poverty eradication. The Government has also pursued an integrated and comprehensive national anti-poverty strategy called the *Kapit-Bisig Laban sa Kahirapan*. (Linking Arms Against Poverty), which focuses on asset reform, human-development services, employment and livelihood, social protection and participatory governance. This is being implemented across all Departments of the Executive Branch.

85. In implementing major programs and projects designed to fast-track poverty-reduction efforts, the Philippines has closely cooperated with Foreign partners. Foreign-assisted projects include the Autonomous Region in Muslim Mindanao (ARMM) Social Fund for Peace and Development, Development of Poor Urban Communities Sector Project, Achieving the Millennium Development Goals and Reducing Human Poverty Programme, and the KALAHATI (“Brethren”) Comprehensive and Integrated Delivery of Social Services.

86. The Philippines has initiated the implementation of the following: (1) microfinance and livelihood services, (2) Poverty Free Zone Program, (2) *Unlad Kabuhayan* (“Progressive Livelihood”) Program, and *Ahon-Familyang Pinoy* (“Lifting the Filipino Family from Poverty”) Project. The Accelerated Hunger Mitigation Plan was likewise launched to address the problem of hunger with the following programs: Self Employment Assistance - Kaunlaran (“Progress”)

Program,<sup>16</sup> *Tindahan Natin* (“Our Store”) Project, *Gulayan ng Masa* (“Backyard Gardening”) and Barangay Food Terminal Program, emergency public work and food for work programs.

87. The Philippine Plan of Action for Nutrition 2005-2010 provides interventions to alleviate hunger and malnutrition. Through the institutionalized local nutrition committees, the National Nutrition Council and other national agencies are able to coordinate the formulation of plans at the local level and the implementation of various health and nutrition programs such as *Garantisadong Pambata* (“Guaranteed for Children”), the Salt Iodization Nationwide Act, Food Fortification, Nutrition Education, National Supplemental Feeding Program, and Food-for-School Program.

88. The Government has also set up the Community-Based Monitoring System (CBMS) to better identify who and where the poor are and what their needs are. The CBMS is a poverty monitoring system that makes use of computer-based processing in generating the core local poverty indicators at the household level.

89. The Philippine populace has also enjoyed better health over the past 20 years, indicating progress in achieving the country’s Millennium Development Goals (MDG) health targets by 2015.

90. It is also the declared policy of the Philippines to duly recognize and promote the rights of the indigenous cultural communities within the framework of national unity and development.

91. To further promote the rights of Indigenous Peoples, and to accord them the necessary protection under the law, the Philippines has endeavored to progressively implement the provisions of Republic Act 8371 and Republic Act 9054 in order for them to be at par with their fellow Filipinos in dealing with the challenges of development.

92. Republic Act 8371, otherwise known as the Indigenous Peoples Rights Act (IPRA) of 1997 was signed into law on 29 October 1997 by then President Fidel V. Ramos. It was hailed as a landmark legislation and a triumph of political will by the Indigenous Peoples, Government, civil society and the international community. The bill that came to be known as IPRA took 10 years to pass the Philippine Legislature, i.e., from 1987 until 1997. It underwent many years of consultations and legislative study, particularly in fleshing out the innovative indigenous property concept enshrined in the 1987 Constitution. Finally, the legislative measure authored by Senator Juan M. Flavio in 1995 passed through the numerous popular consultations, legislative deliberations, plus a decade of consolidated bills related to ancestral domains and lands.

93. The constitutionality of IPRA was raised before the Philippine Supreme Court. On 06 December 2000, the Supreme Court finally came out with its decision upholding the

---

<sup>16</sup> The SEA-K (Self Employment Assistance - Kaunlaran “Progress”) Program is a capacity-building program of the DSWD and Local Government Units, which aims to enhance the socio-economic skills of poor families through the organization of community-based associations for entrepreneurial development. It is open to disadvantaged individuals and families of depressed communities nationwide.

constitutionality of IPRA, specifically the provisions on the rights to ancestral domains and natural resources. The Supreme Court decision in the landmark case of Cruz et al. vs. Secretary of Environment et al. (G.R. No. 135385, 06 December 2000) signaled the first time in Asia that a national government legally recognized the rights of Indigenous Peoples to their ancestral domains, or territories and to natural resources.

94. IPRA was enacted to recognize, protect, and promote the rights of indigenous cultural communities/indigenous peoples, and to create the NCIP, as well as to establish implementing mechanisms and appropriate funds for these purposes. It mandated NCIP to carry on with quasi-legislative, quasi-judicial and administrative/executive functions.

95. IPRA defined Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) as “a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, become historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, and political institutions, but who may have been displaced from their traditional domains or may have resettled outside their ancestral domains.”

96. IPRA is the embodiment of the rights and aspirations of indigenous peoples, which are as follows: (a) Rights to Ancestral Domains/Ancestral Lands - covers the rights of ownership, possession and utilization of ICCs/IPs to their ancestral domains as defined by law; (b) Rights to Self-Governance and Empowerment - recognizes the inherent right of ICCs/IPs to self-governance and self determination, respects the integrity of their values, practices and institutions, and guarantees the right of ICCs/IPs to freely pursue their economic, social and cultural development; (c) Social Justice and Human Rights - ensures that the employment of any form or coercion against ICCs/IPs shall be dealt with by law; and, (d) Cultural Integrity - includes respect, recognition and protection of the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies.

97. Given the primacy accorded by H.E. President Gloria Macapagal-Arroyo to community empowerment and upland development, the IPs have been transformed into major players and partners in nation-building. Considering the limited resources of the Government for ancestral domain delineation and social services, the Philippines has accepted the generous offer of assistance from international partners that have pledged to extend financial aid for livelihood and community empowerment on a need-driven basis. Meanwhile, IPs/ICCs, have started to access local resources in their holistic development initiatives. In several cases these are undertaken in partnership with local government units and civil society. These trends clearly indicate that the implementation of IPRA is a dynamic, long-term and collective endeavor in the context of cultural integrity.

98. On the other hand, as presented in the previous reports, the Philippine Government, in order to effect genuine autonomy in consonance with the Tripoli Agreement of 1976 and to pave the way for peace and development in Muslim Mindanao, entered into a peace agreement with the Moro National Liberation Front on 02 September 1996. The Second Phase of the peace agreement includes the expansion of the Autonomous Region in Muslim Mindanao. This was realized with the passage of Republic Act 9054 on 07 February 2001. The enactment of this law expanded the area of the Autonomous Region of Muslim Mindanao (ARMM) by adding the Province of Basilan and the City of Marawi to the original four (4) Provinces of Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi. It's the functions and organizational structure of ARM were likewise enhanced to promote more meaningful autonomy and to address inequality in governance for Muslim Filipinos and all the other sectors within the area of autonomy.

99. Moreover, Executive Order No. 125, entitled "Further Enhancing the Devolution of Powers and Functions, Programs and Projects of National Government Agencies to the Autonomous Region in Muslim Mindanao, and for Other Purposes," was issued by President Gloria Macapagal Arroyo in order to provide the terms of reference to ensure that the devolution of powers and functions in the ARMM are made in accordance with law. This was followed with the issuance of Executive Order No. 125 devolving locally-funded programs and projects in the ARMM; Executive Order No. 178 further devolving to the Autonomous Regional Government powers and functions of the Department of Science and Technology; Executive Order No. 180 providing that the Department of Trade and Industry shall continually assist the Autonomous Regional Government in the performance of its economic development mandate; Executive Order No. 181 devolving the powers and functions of the Technical Education and Skills Development Authority to the ARMM; and Executive Order No. 207 providing ARMM a representation in the formulation of social and economic policies, plans, and programs. The Office of the President also approved the operationalization of the Regional Security Force charged with keeping peace and order in the ARMM.

100. The expanded autonomy law enhances further the rights and opportunities of the ARMM populace, including religious and cultural rights, more representation in the national government, establishment of the Shari'ah judicial system and the implementation of Madrasah system of education.

101. Having a tripartite population, the ARMM through the expanded autonomy law provides representation for Muslims, non-Islamized Indigenous Peoples (also referred to as the Lumad), and Christians through Deputy Regional Governors.

### **Article 3**

#### **Condemnation, prevention, prohibition and eradication of racial segregation and apartheid**

102. The Philippines reaffirms its adherence to the Charter of the United Nations which has, as one of its basic principles, the promotion of human rights and fundamental freedoms for all without distinction as to race, color, sex, language or religion. This principle is considered a vital element for the achievement of growth and development and for the maintenance of peace and security. Racism and all forms of racial discrimination are an affront to the dignity of man and should be eradicated.

103. The Philippines actively supported and participated in the efforts of the international community in bringing to an end apartheid in South Africa. The Philippines is pleased to note that apartheid as defined by the International Convention on the Suppression and Punishment of the Crime of Apartheid no longer exists anywhere. As proof of its commitment to fight any occurrence or resurgence of the form of apartheid such as that which was practiced in South Africa, the Philippines ratified, aside from the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid on 26 January 1978 and the International Convention against Apartheid in Sports on 22 July 1987.

104. The Philippine commitment to these fundamental precepts/principles is clearly manifested in the IPRA.

105. Paragraph d, Section 2 of IPRA provides that “the State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure of human rights and freedoms without distinction and discrimination.”

106. Paragraph e, Section 2 of the same law provides that “the State shall take measures, with the participation of the ICCs/IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the populations.”

107. Moreover, Section 21, Chapter V of IPRA provides that “with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity, accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form or coercion against ICCs/IPs shall be dealt with by law.”

108. Free and Prior Informed Consent (FPIC) refers to the consensus of all concerned members of the ICCs and IPs, which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the project. The FPIC should be in the language and a process understandable to the community (Sec. 3 (g), IPRA). The FPIC is given by the concerned ICCs/IPs upon the signing of the Memorandum of Agreement (MOA) containing the conditions or requirements, benefits, as well as penalties of agreeing parties as basis for the consent as provided for under Section 5 Paragraph A of the Free and Prior Informed Consent (FPIC) Guidelines of 2006.

109. FPIC is an essential requirement by virtue of IPRA. FPIC strictly enjoins all department and other government agencies not to issue, renew, nor grant any concession, license or lease, nor enter into any production-sharing agreement, without prior certification from the NCIP that the area affected by development projects does not overlap with any ICC/IP ancestral domain.

110. The IPRA provides further that no certification shall be issued by the NCIP without FPIC and written consent of the concerned Indigenous Peoples. This provision is a leverage given to Indigenous Peoples and serves as a tool to balance the interests of the State and the Indigenous Peoples. The issuance of the Certification Precondition (CP) is the indigenous peoples' primary safeguard mechanism to ensure that their rights, interests and welfare as well as equitable benefits are protected when these development projects enter their ancestral domains/lands. (Sec. 59, IPRA).

111. FPIC has the following objectives:

(a) Ensure genuine participation of ICCs/IPs in decision-making through the exercise of their right to Free and Prior Informed Consent (FPIC) whenever applicable;

(b) Protect the rights of the ICCs/IPs in the introduction and implementation of plans, programs, projects, activities and other undertakings that will impact upon their ancestral domains to ensure their economic, social and cultural well-being; and

(c) Ensure just and equitable partnership in environmental management, land use, development, utilization and exploitation of resources within ancestral domains as well as benefit sharing, between and among the concerned ICC/IP community and the prospective investor, government agency, local government unit (LGU), non-government organization (NGO) and other entities desiring to collaborate in such undertaking, when FPIC is given.

112. It should be stressed that the FPIC should be observed prior to the issuance of a Certificate of Precondition. In all areas covered by the corresponding Certificates of Precondition, it is imperative that there had been no major disagreement between Indigenous Cultural Communities and the proponent to safeguard the effective implementation of the Free and Prior Informed Consent procedure.

113. It should likewise be stressed that there had been no formal protest from any Indigenous Peoples Community indicating that the FPIC process was not being followed, or that Administrative Order No. 1, Series of 2002 as strengthened by Administrative Order No. 1, Series of 2006, which laid down the procedure to be followed in the FPIC process, was defective.

114. In mining areas where FPIC had been granted by the IP communities and where NCIP bestowed its Certificate of Precondition, there were no reported violations of the rights of the IPs/ICCs signifying that the FPIC process is a meaningful, effective and successful mechanism for IP rights protection and empowerment.

115. Presently, the NCIP has already issued a total of 127 Certificates Precondition broken down as follows: 70 on Mining Projects; 11 on Mini-Hydro/Dam Projects; 4 on Forestry; 5 on ISAG; 3 on Research (Bio-diversity); 34 on smaller projects.

#### Article 4

##### Measures to eradicate all incitement to acts of racial discrimination

116. The Philippines reiterates the information contained in its previous reports under this Article of the Convention.

117. In addition, the Philippines also endeavored to include penal sanctions in IPRA with the end in view of complying with its obligations under Article 4 of the Convention. Section 72 of IPRA provides that “any person who commits violation of any of the provisions of IPRA, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: Provided, that no such penalty shall be cruel, degrading or inhuman punishment: Provided further, that neither the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/IPs to avail of the protection of existing laws. In which case, any person who violates any provision of the Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine of not less than One Hundred Thousand Pesos (P100,000.00) nor more than Five Hundred Thousand Pesos (P500,000.00) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.”

118. Moreover, Section 73 of the same law further provides that “if the offender is a juridical person, all officers such as, but not limited to, its president, manager, or head of office responsible for their unlawful act shall be criminally liable therefore, in addition to the cancellation of certificates of their registration and/or license: Provided, that if the offender is a public official, the penalty shall include perpetual disqualification to hold public office.”

119. The Philippines, in its efforts to eradicate acts that could incite or would constitute racial discrimination, a legislative bill<sup>17</sup> on anti-discrimination in the Lower House of the Philippine Congress entitled, “The Anti-Religious and Racial Profiling Act of 2007” is presently being considered. This bill is a consolidation of two (2) bills authored by Congresswoman Faysah RPM Dumarpa of Lanao del Sur and described as “Anti-Religious and Racial Profiling Act of 2007” (“Dumarpa Bill”) and the Hataman Bill, authored by Congressman Mujiv Hataman of the Anak Mindanao (Child of Mindanao) Partylist and described as “Anti-discrimination Act of 2007.”

---

<sup>17</sup> This bill is a consolidation of the “Dumarpa Bill,” authored by Congresswoman Faysah RPM Dumarpa of Lanao del Sur and described as “Anti-Religious and Racial Profiling Act of 2007” and the “Hataman Bill,” authored by Congressman Mujiv Hataman of the *Anak Mindanao* (“Child of Mindanao”) Partylist.

120. The Executive Branch of the Philippine Government is also lobbying for the enactment of the following legislative bills before the Upper House of the Philippine Legislature, i.e., Philippine Senate: (a) Senate Bill # 1674 and 189, an Act Creating the National Commission on Muslim Filipino defining its powers, functions and responsibilities and appropriating funds therefore or for other purposes, filed on August 10, 2004 by Aquilino C. Pimentel, Jr. in the 13<sup>th</sup> Congress and on June 30, 2004 by Ejercito Estrada, Luisito Loi P. Estrada respectively; (b) House Bill Nos. 6739 and 1175, an Act Creating a National Commission on Muslim Filipinos, filed in the 14<sup>th</sup> Congress by Ejercito Estrada, Jinggoy P. on July 3, 2007; Legarda Loren B. on July 4, 2007 and Pimentel, Jr. Aquilino on the same date; (c) Senate Bill No. 284, an Act Amending Executive Order No 122-A, Creating the Office on Muslim Affairs, as amended, filed on June 30, 2004 by Osmena III, Sergio R. otherwise known as an Act creating the Office on Muslim Affairs.

121. It is also noteworthy to cite at this juncture that the Department of Justice and the National Commission on Indigenous Peoples concluded a Memorandum of Agreement on 07 March 2005 to expedite the resolution of cases for alleged violation on the National Integrated Protected Area System (NIPAS) Law and the Small Scale Mining Act, with the purpose of realizing the provisions of the IPRA in recognition of the preferential rights of ICCs/IPs to the natural resources within their ancestral domains/lands.

122. The National Commission on Indigenous Peoples also endeavored to harmonized its policy vis-à-vis the policies of the Department of Environment and Natural Resources (DENR), Department of Agrarian Reform (DAR), and the Land Registration Authority (LRA) to address overlapping concerns. These policy harmonization initiatives include: (a) Harmonization of the implementation of IPRA and DENR policies through Joint DENR-NCIP Memorandum Circular No. 1, Series of 2003; (b) Temporary Suspension of Land Acquisition and Distribution and AD/AL Titling Activities in Contentious Areas through DAR-NCIP Memorandum Circular No. 15, Series of 2003; and, (c) Supplemental Guidelines on the Delineation, Titling and Registration of CADTs and CALTs through LRA-NCIP Memorandum Circular No. 1, Series of 2007.

## Article 5

### **Promotion and protection of political, civil, economic, social and cultural rights**

123. The Philippines reiterates the information under this item which was given during the previous report(s). In particular, the provisions of the 1987 Constitution and statutory laws such as the Labor Code, Omnibus Election Code, Social Reform Act, IPRA, *inter alia*, guarantee the promotion and protection of the full range of civil, political and economic, social and cultural rights of every Filipino without distinction as to race, color or ethnic origin, which includes:

- The right to due process and equal treatment before tribunals and other quasi-judicial bodies.
- Right to security of person and protection from violence or bodily harm.
- Political rights notably, the right of suffrage, which includes the right to be elected and to fully participate in the electoral process, to take part in governance and the conduct of public affairs, and equal access to public service.

- Civil rights notably, the right to freedom of movement and residence, right to travel (i.e., the right to leave any country and to return to the country), citizenship, right to contract marriage and choice of spouse, property rights, rights of succession and inheritance, freedom of thought, conscience and religion, freedom of opinion and expression, right to peaceful assembly and association.
- Economic, social and cultural rights, notably the right to work, free choice of employment, right to just and favorable conditions of work, protection against unemployment, to equal pay for equal work, to just and favorable remuneration, the right of association including the right to form and join trade unions, the right to housing, the right to public health, medical care, social security and social services, right to education and training, the right to equal participation in cultural activities and the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theaters and parks.

124. The Bill of Rights, contained in Art. III of the Constitution occupies a position of primacy in the fundamental law. The guarantees enumerated in the Bill of Rights include the due process and equal protection clause, the right against unwarranted searches and seizures, the right to free speech and the free exercise of religion, the right against self-incrimination, and the right to habeas corpus. The scope and limitations of these rights have been determined largely by the decisions of the Supreme Court, which also has exclusive rule-making jurisdiction, under Art. VIII Section 5(5) of the Constitution, to promulgate rules concerning the protection and enforcement of constitutional rights.

125. Outside of the Bill of Rights, the Constitution also contains provisions on citizenship, right to suffrage, accountability of public officers, national economy and patrimony. Specific attention has been given in the Constitution to indigenous peoples, social justice, family, women, youth, labor, private sector, non-governmental, community-based and sectoral organizations, right to health, right to a balanced ecology, rural development and agrarian reform, and human rights, *inter alia*.

126. For complaints of human rights violations, effective remedies are available through judicial, administrative and legislative processes, including inquiries in aid of legislation, internal administrative disciplinary procedures in executive agencies, the police, and armed forces. Independent bodies such as the Ombudsman and CHRP also provide alternative procedures for complaints and redress. The CHRP has taken cognizance of economic, social and cultural rights as part of its mandate to monitor government compliance with international obligations. Jurisprudence is well-developed in areas such as labor rights, sexual harassment, and eviction, *inter alia*.

127. The Department of Labor and Employment (DOLE) has adopted employment-promoting strategies at the national and regional levels. In 2007, average employment growth accelerated by 2.3% with a commensurate decline to 6.3 % as of October 2007 in the unemployment rate.

128. In pursuit of the MDGs target, the Government, in partnership with the private sector, provided security of tenure or shelter security units (e.g., house and lot, house only or lot only) to 710,203 households from 2000 to 2006. The Government's main home loan facility has liberalized requirements, lowered interest rates, and extended its repayment period.

129. To reduce the number of Philippine families with substandard dwellings, the National Shelter Program launched by the Government implements the following: (a) resettlement; (b) slum upgrading; (c) sites and services development; (d) core housing; (e) Community Mortgage Program; and (f) asset reform program. The private sector such as *Gawad Kalinga* (“To Give Care”), an initiative of “Couples for Christ,” and Habitat for Humanity also implemented housing projects.

130. The Government also launched the FOURmula One for Health Program as the implementing framework for health sector reforms to achieve better health outcomes, create a more responsive health system and provide for equitable health care financing. The four thrusts of the program are the following: (a) higher, better and sustained financing; (b) regulation to ensure quality and affordability; (c) service delivery to ensure access and availability; and (d) governance to improve performance.

131. To date, the Government was able to establish 10,000 “*Botika ng Bayan*” (low cost pharmacies) throughout the country by providing subsidies. The Philippine Legislature is presently considering the passage of appropriate legislative measures to address the rising cost of medicines.

132. The Philippine AIDS Prevention and Control Act (1998) has been cited by UNAIDS and used by many countries as a model legislation for national HIV response. The Philippines AIDS Medium Term Plan covers the right of People Living with HIV (PLWH) to access comprehensive prevention, treatment, care, and support and support the fight against the resulting stigma and discrimination. Some companies have now established their AIDS in the Workplace Programmes.

133. The Department of Social Welfare and Development (DSWD) and Civil Society organizations maintain halfway houses, shelter and social service centers for women and youth who are victims of crime or are in conflict with the law.

134. Recognizing that persons with disabilities, as a vulnerable sector and a human rights concern to which particular attention should be paid, GRP has adopted legislation and initiatives to create an “inclusive and rights-based environment” for persons with disabilities. From a surge of enabling laws, the most crucial was the “Magna Carta for Disabled Persons,” a landmark law that established for this sector the right to education, to work, to health and auxiliary services, the right to organize, vote, be elected. It also advocates the passage of rights-based legislation.

135. In 2006, the United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP) and the Asia Pacific Center on Disability (APCD) recognized the country’s high-impact programs on Non-Handicapping Environment and Accessible Information & Communications Technology (ICT) for Persons with Disabilities (PWDs), as among Asia Pacific Region’s best practices. In 2003, the country hosted 13 countries in sync with the UN-Division on Economic and Social Affairs (DESA), which passed 2 milestone documents, i.e., the “Manila Declaration,” and “Recommendations on Accessible ICT”.

136. The President transferred the National Council for the Welfare of Disabled Persons (NCWDP), the national lead agency on persons with disability, to the Office of the President, through Executive Order 676 to further enhance the rights of this sector. Earlier, in April 2007,

the government passed Republic Act No. 9442, amending the Magna Carta, by providing the sector a 20% discount on public establishments similar to that provided to senior citizens, and added provisions on the sector's protection from public ridicule and vilification.

137. The Philippines has a long tradition of women's participatory inclusion and empowerment, in both public and private sectors. Women are well represented in all three branches of government (two presidents have been women) and are also in the police and armed services. Landmark legislation on women, include the Women in Development and Nation-building Act, laws promoting the greater participation of women in the economy, and laws addressing violence against women and children.

138. The Philippines has made progress in closing the gender gap as it ranked 6<sup>th</sup> among 128 countries in the 2007 Global Gender Gap Report published by the World Economic Forum. This index was developed measuring four categories - economic participation and opportunity, educational attainment, political participation, and health and survival.

139. In terms of Gender Empowerment Measure (GEM),<sup>18</sup> the Philippines ranks 45 out of 177 countries. Ratio of estimated female to male earned income is 0.61. There are more female professional and technical workers (61% of total) than males. There is also an increase in the number of female legislators in Congress.

140. For 33 years, the National Commission on the Role of Filipino Women (NCRFW) has ensured that policies, plans, structures and mechanisms to sustain gender mainstreaming in government were developed and strengthened. A Framework Plan for Women, a time-slice of the 30-year Philippine Plan for Gender-responsive Development (PPGD), 1995-2025, prioritizes women's economic empowerment, women's human rights, and gender-responsive governance. A Gender and Development (GAD) Budget Policy requires at least 5 percent of national and local government budgets are allocated for programs and services for women and gender equality.

141. At the local level, 63 local government units have enacted GAD Codes and 1,650 local women's or GAD councils have been created. Implementation of programs that address gender issues such as violence against women and women's health services have improved. Regional GAD Resource Centers have been set up in 8 regions to provide technical assistance.

142. The NCRFW and Office of the Presidential Adviser on the Peace Process (OPAPP) have held joint workshops to forge cooperation among stakeholders in recognizing issues and promoting initiatives concerning gender and peace. NCRFW co-organized with civil society groups a workshop on UN Security Resolution 1325 on Women, Peace and Security geared towards the formulation of a national action plan to implement the Resolution.

143. With the improved performance of women in formal education, greater attention is now being focused in expanding job options of women through technical-vocational training and non-formal education programs that are implemented by government agencies and NGOs. In the

---

<sup>18</sup> 2007-2008 Human Development Report.

last decade, Filipino women have become increasingly active as men in realizing their economic rights, while being assisted with their childcare and other family responsibilities. They are in all kinds of employment in formal or informal work settings here and abroad. The last decade had seen an increase in the number of women in the labor force with 49% of all women working compared to 79% of men.

144. Filipino women almost equal men in numbers as workers overseas. There had also been a rising percentage of women in management and economic decision-making positions.

145. Credit programs have reached over a million women in urban and rural areas, including women operating small and medium enterprises.<sup>19</sup> In March 2007, the President instructed concerned agencies to work with cooperatives and NGOs to provide wider access to microfinance funds for women, and instructed the Philippine Credit and Finance Corporation (PCFC) to make microfinance available to women in government.

146. Landmark laws to eliminate violence against women, such as sexual harassment, rape, trafficking in persons, and domestic violence have been passed.<sup>20</sup> The delivery of government and NGO programs aimed at preventing violence against women has benefited a considerable number of Violence Against Women (VAW) survivors. Performance standards for gender-responsive handling of VAW cases by local officials, police, social workers, health workers, and prosecutors have been developed.

147. The Supreme Court has created a Committee on Gender-Responsiveness in the Judiciary. In support of the Violence against Women and Their Children (VAWC) Act, the Court issued the *Rule on Violence Against Women and their Children*, which seeks to protect the rights of the family and its members, particularly women and children, from violence and threats to their personal safety and security, and enables the courts to manage and monitor such cases.

148. The Philippines is endeavoring to establish a legal framework to further promote of gender equality and women's rights. The Philippines is currently considering the enactment of a comprehensive legal framework that will integrate the Convention on the Elimination of Discrimination Against Women (CEDAW) in the national legal system through the passage of the Magna Carta of Women (MCW) bill to ensure that gender discrimination is addressed across all sectors, including indigenous and Muslim women, and in all spheres. The passage of the

---

<sup>19</sup> The Gender-responsive Economic Actions for the Transformation of Women or the GREAT Women Project, with the support of the C\$6 million over five (5) years from Canadian International Development Agency (CIDA) is being executed by the NCRFW in partnership with national agencies and local government units to enhance the enabling environment for women to have better access to enterprise development with programs and services on credit, and training on financial management, markets and information, technology and product development, social protection, and environmental sustainability.

<sup>20</sup> These laws are: RA 7877 (Anti-Sexual Harassment Act of 1995); RA 8353 (Anti-Rape Law of 1997); and RA 8505 (Rape Victim Assistance Act of 1998), RA 9208, (Anti-Trafficking in Persons Act of 2003) and RA 9262 (the Anti-Violence Against Women and Their Children Act).

MCW is intended to strengthen the national machinery for the advancement of women and provide it with the authority, decision making power, and human and financial resources vital to its work to effectively promote gender equality.

149. RA 9208 Anti-Trafficking in Persons Act was enacted in 2003 to the populace, particularly women and children from trafficking. The Inter-agency Council Against Trafficking (IACAT) was created pursuant to this law to monitor the implementation of prevention, protection, recovery and reintegration programs of trafficked victims. Information dissemination campaigns, enforcement of local ordinance against trafficking in persons, and livelihood assistance for victims and families affected by trafficking continue to be undertaken.

150. The Armed Forces of the Philippines (AFP) is committed to its mandate to “protect the people, secure sovereignty of the state and integrity of the national territory.” The AFP leadership has made substantial efforts to educate all military units on human rights (HR) and international humanitarian law. The AFP does not condone human rights violations and does not protect personnel who commit them. Specific AFP policies that directly impact on human rights include the following:

- All AFP personnel must be cleared by the Commission on Human Rights before they may be promoted.
- The AFP extended full support to the CHRP, the Philippine National Red Cross and the International Committee of the Red Cross and even allowed them to visit and inspect AFP Custodial Centers.
- Training programs within the AFP include human rights modules.
- Standing Rules of Engagement for Internal Security Operations (SROE) call for proportionality in the use of force and the protection of non-combatants. The SROE was reviewed in 2005 by the Office of the Judge Advocate General to align its provisions with universally accepted principles that include respect for human life and adherence to international law.
- Strengthening of the AFP Indigenous Peoples Affairs Desk (IPAD) to carry out the provisions of IPRA.

151. The overall National Defense Strategy, which includes counter-insurgency approaches, also considerably involves the use of soft approaches that includes the institutionalization of the AFP National Development Support Command to pursue grassroots upliftment in the interest of expanding the AFP’s solidarity with the people in conflict areas. The AFP has endeavored to foster confidence building measures grounded on strong interfaith dialogue and cultural awareness as well as economic and basic infrastructure developments, *inter alia*, as initiatives to maintain the peace in the country particularly in the Southern part of the Philippines. In this regard, The AFP has engaged faith-based groups and has sponsored an ongoing program known as the AFP-PNP Bishop Ulama Conference Forum for Peace, which is regularly held. This forum brings together the highest religious leaders of the Christian Faith and Islam and AFP-PNP Commanders a means to foster peace in the country, particularly in Mindanao. The AFP also sponsored the 1<sup>st</sup> AFP-PNP-Church Summit with the theme, “Promoting a Culture of Peace and Respect for Human Rights”.

152. The Philippine National Police has also endeavored to underscore the primacy of non-discrimination. The National Police Commission (NAPOLCOM) has issued Memorandum Circular No. 2005-002 on 30 June 2005 prescribing a standard procedure for the recruitment, selection and appointment of PNP uniformed personnel, which provides, *inter alia*, that there shall be no discrimination on account of gender, religion, ethnic origin, political affiliation vis-à-vis its personnel polices on recruitment, selection and appointment. Moreover, NAPOLCOM under Memorandum Circular No. 2000-04 likewise grants cultural minority preference to members of the indigenous sector of society by giving additional consideration to those who failed in NAPOLCOM administered examination under certain conditions. This is in support of the ICERD provision on the adoption of measures to ensure the adequate development and protection of certain racial groups or individual for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.

153. The Philippines also wishes to underscore that Republic Act 8551, otherwise known as “An Act Providing for the Reform and Reorganization of the Philippine National Police, and for Other Purposes” gives rightful opportunity to members of Indigenous Cultural Communities to employment in the Philippine National Police.

154. To fully ensure human rights promotion and protection by its personnel, the Philippine National Police established its Human Rights Affairs Office (HRAO). This unit is directly under the Chief of the PNP and was created on 29 June 2007. The HRAO has been conducting series of information campaigns/seminars on human rights to PNP personnel including lectures on the rights of ICCs/IPs as provided for in the Bill of Rights of the Philippine Constitution, Indigenous Peoples Rights Act, and other special laws.

155. The Department of National Defense (DND) has also adopted the policy guidelines directing the AFP-PNP to reaffirm their adherence to human rights and the principles of international humanitarian law in the conduct of security police operations and has endeavored to provide Indigenous Peoples the opportunity to enlist as regular members of the armed forces.

156. On 13 May 2008, a Memorandum of Agreement (MOA) creating the Judiciary, Executive and Legislative Council (JELAC) as a consultative mechanism among the three (3) branches of government was signed as a firm manifestation of the collective will of the Republic of the Philippines to undertake measures to safeguard the primacy of the rule of law as the bedrock of the State’s stability and economic progress. The MOA was signed by the highest State officials, with H.E. President Gloria Macapagal Arroyo as chairperson and the following as members: Vice President Noli L. de Castro, Senate President Manuel B. Villar, Speaker of the House of Representatives Prospero C. Nograles, Supreme Court Chief Justice Reynato S. Puno and four (4) other members from the Cabinet, Senate, House of Representatives and the Supreme Court.

157. Republic Act 8425 institutionalizes the social reform and poverty alleviation program which were reported in the previous periodic reports. It oversees three (3) core tasks towards poverty alleviation: (a) Coordination of poverty reduction programs; (b) Institutionalization of basic sectors’ participation; and, (c) Promotion of micro-finance initiatives. It declares four (4) official policies: (a) Adoption of an area-based, sectoral and focused intervention to poverty alleviation in which every poor Filipino family shall be empowered to meet its minimum basic needs; (b) Active pursuit of asset reform or redistribution of productive economic resources

to the basic sectors, including a public expenditure system targeted towards the poor; (c) Institutionalization and enhancement of the Social Reform Agenda; and, (d) Adoption and operationalization of the national framework integrating structural reform and anti-poverty initiatives.

158. The law was borne out of the efforts by the Government, the basic sectors and the civil society to arrive at a common venue to address inequality of services, especially with the basic sectors, or “the disadvantaged sectors of Philippine Society”, namely: Indigenous Peoples, Differently-abled, Women, Senior Citizen, Formal Labor, Cooperatives, Urban Poor, Victims of Disaster and Calamity, Children, Artisanal Fisherfolk, Youth and Student, Farmers, Non-Government Organization, and Informal Sector.

159. Indigenous Peoples, as a vulnerable group, has also been given special attention by the Philippine Government. In upholding political rights of Indigenous Peoples, Section 15, Article X of the 1987 Constitution provides that there shall be created autonomous regions in Muslim Mindanao and the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of the Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

160. Section 15 of IPRA provides further that the ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights. This provision is given more meaning by NCIP Administrative Circular No. 1, Series of 2003, or the Rules on Pleadings, Practice and Procedure before the National Commission on Indigenous Peoples. Currently, the NCIP maintains twelve (12) Regional Hearing Offices nationwide which implements Administrative Circular No. 1. The Regional Hearing Offices is equal in stature with the Regional Trial Courts of the regular court. Cases handled by the Regional Hearing Offices can only be appealed at the Commission level, and eventually at the Court of Appeals.

161. On the right to security of persons, Section 22 of IPRA provides that “ICCs/IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs against their will into the armed forces, and in particular, for use against other ICCs/IPs; nor recruit children of ICCs/IPs into the armed forces under any circumstance; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.”

162. Moreover, Section 12, Article XVI of the 1987 Constitution provides that the Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities. What Congress did was to provide in Section 50 of IPRA the creation of an Indigenous Peoples Consultative Body (IPCB) which was realized with the approval of an NCIP Administrative Order No. 3, Series of 2003. The IPCB is constituted at the provincial, ethnographic, and national levels.

163. The IPCB serves as the voice of the ICCs/IPs at their respective areas of jurisdiction on matters relating to their problems, aspirations, and interests. They shall discuss issues affecting ICCs/IPs and to provide information and advice related to policymaking of the NCIP. They shall recommend programs and projects to be undertaken by the NCIP. They shall monitor the implementation of policies, projects and programs of the NCIP and other government agencies related to matters affecting ICCs/IPs. They shall also assist in managing and resolving conflicts using traditional processes and the justice system of ICCs/IPs.

164. The IPCB is composed of five (5) representatives composed of traditional leaders, elders, women and youth coming from each ancestral domain area and forced/displaced resettled IP community. It will have additional one representative from each Indigenous Peoples Organization and Tribal Council at the municipal and provincial levels. Sixty-three provincial consultative bodies and three city consultative bodies were already constituted from 13 December 2004 to 23 February 2005. Eight (8) ethnographic regional consultative bodies and one (1) national consultative body have yet to be constituted.

165. Section 13 of IPRA provides that “the State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.”

166. Moreover, Section 14 of IPRA provides that “the State shall continue to strengthen and support the autonomous regions created under the Constitution as they may require or need. The state shall likewise encourage other ICCs/IPs not included or outside Muslim Mindanao and the Cordilleras to use the form and content of their ways of life as may be compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs; nor recruit children of ICCs/IPs into the armed forces under any circumstance; nor force indigenous individual to abandoned their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.”

167. Equitable representation in governance is provided for in Sections 446, 457 and 467 of Republic Act 7160, otherwise known as the Local Government Code of 1991. IPRA also enhances active participation by ICCs/IPs in governance through the provision of Section 16 of the law which provides that “ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the /state shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.”

168. At present, pilot areas in the implementation of the above cited statutes have set in place in the local legislative councils of the Province of Zamboanga Sibugay, Municipalities of Laak, New Bataan and Nabunturan in Compostella Valley and Esperanza in Agusan del Sur, and in the City of Gingoog in Misamis Oriental. With these experiences serving as models for replication

by the other local government units but with more vigilance and support networking activities from the NCIP and the IPCB the rights of ICCs/IPs to equitable representation in governance will progressively be realized in the succeeding years.

169. Likewise, Section 17 of IPRA provides that “the ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, constitutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.”

170. Furthermore, Section 18 of IPRA “recognizes and encourages that the ICCs/IPs living in the contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay (“village”) in accordance with the Local Government Code in the creation of tribal barangays.” The creation of tribal barangays will enable the ICCs/IPs to fully exercise their right to self-governance through the practice of their traditional leadership structures, forms of governance and justice systems which will likewise enhance their cultural integrity.

171. On civil, social, economic and cultural rights, Section 5, Article XII of the 1987 Constitution provides that the State, subject to the provisions of the Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.

172. The following provisions of IPRA express the resolve of the government to address the general well being and aspirations of Indigenous Peoples to cope up and live in equal footing with the rest of the Philippine society:

- Section 23 of IPRA provides that “it shall be the right of the ICCs/IPs to be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities for admission to employment, medical and social assistance, safety as well as other occupationally-related benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, including bonded labor and other forms of debt servitude; and equal treatment in employment for men and women, including the protection from sexual harassment. Towards this end, the state shall, within the framework of national laws and regulations, and in cooperation with the ICCs/IPs concerned, adopt special measures to ensure the effective protection with regard to the recruitment and conditions of employment of persons belonging to these communities, to the extent that they are not effectively protected by laws applicable to workers in general.”
- Section 24 of IPRA provides that “the ICCs/IPs shall have the right to association and freedom for all trade union activities and the right to conclude collective bargaining agreements with employer’s organizations. They shall likewise have the right not to be subject to working conditions hazardous to their health, particularly through exposure to pesticides and other toxic substances. It shall be unlawful for any person:

(a) To discriminate against any ICC/IP with respect to the terms and conditions of employment on account of their descent. Equal remuneration shall be paid to ICC/IP and non-ICC/IP for work of equal value; and, (b) To deny any ICC/IP employee any right or benefit herein provided for or to discharge them for the purpose of preventing them from enjoying any of the rights or benefits provided under this Act.”

- Section 25 of IPRA provides that “the ICCs/IPs have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and security.” Particular attention will be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons. Accordingly, the State shall guarantee the right of ICCs/IPs to basic government services which will include, but not be limited to, water and electrical facilities, education, health and infrastructure.

173. At the heart of IPRA<sup>21</sup> is the right of the ICCs/IPs to their ancestral domains and lands

---

<sup>21</sup> Sections 7 and 8 of IPRA provides for the rights to ancestral domains and ancestral lands, as follows:

*Sec. 7. Rights to Ancestral Domains* - The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

(a) *Rights of Ownership* - The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

(b) *Right to Develop Lands and Natural Resources* - Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they sustain as a result of the project; and the right to effective measures by the government to prevent any interfere with, alienation and encroachment upon these rights;

(c) *Right to Stay in the Territories* - The right to stay in the territory and not be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs

which includes, among others: (a) The right of ownership which sustains the view that ancestral domain and all resources therein serve as the material bases of the IPs' cultural integrity. These are the IPs' private property but are considered community property which belongs to all generations; and, (b) The right to develop and manage lands and natural resources which is

---

shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

(d) *Right in Case of Displacement* - In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support system: Provided, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: Provided, furthermore, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed;

(e) *Right to Regulate Entry of Migrants* - Right to regulate the entry of migrant settlers and organizations into the domains;

(f) *Right to Safe and Clean Air and Water* - For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;

(g) *Right to Claim Parts of Reservations* - The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and

(h) *Right to Resolve Conflict* - Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary.

Sec. 8. *Rights to Ancestral Lands* - The right of ownership and possession of the ICCs/IPs, to their ancestral lands shall be recognized and protected:

(a) *Right to transfer land/property* - Such right shall include the right to transfer land or property rights to/among members of the same ICCs/IPs, subject to customary laws and traditions of the community concerned;

(b) *Right to Redemption* - In cases where it is shown that the transfer of land/property rights by virtue of any agreement or devise, to a non-member of the concerned ICCs/IPs is tainted by the vitiated consent of the ICCs/IPs, or is transferred for an unconscionable consideration or price, the transferor ICC/IP shall have the right to redeem the same within a period not exceeding fifteen (15) years from the date of transfer.

basically in accordance with their Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) which they, themselves have formulated. This right does not preclude, however, other persons from undertaking business or other activities in ancestral domains, especially those involving the exploration and extraction of natural resources. However, the condition precedent of Free and Prior Informed Consent (FPIC) of the ICC/IP owning the domain should be secured and certified to by the NCIP with a Certification of Compliance.

174. Subject to Section 56 of IPRA, the ancestral domains of Indigenous Peoples “refers to all areas generally belonging to ICCs/IPs, comprising lands, inland waters, coastal areas, and natural resources therein, held under the claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forest, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to their subsistence and traditional activities particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.”

175. Ancestral domain includes such concept of territories which covers not only the physical environment but including the spiritual and cultural bonds to the areas that the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

176. To date the NCIP has already issued seventy one (71) Certificates of Ancestral Domain Titles (CADTS) covering an area of 1,635,972.7655 hectares and 180 Certificates of Land Titles (CALTs) covering an area of 5,628.2437 hectares, or a total of 1,641,601.0092 hectares.

177. NCIP has also facilitated the formulation of 18 Ancestral Domain Sustainable Development Plans (ADSDPP) with 93 more ongoing formulation nationwide. The ADSDPP serves as the blueprint of development of the ancestral domains of the Indigenous Peoples. The sustainable development and protection of the ancestral domain by the ICCs/IPs themselves is the manifestation of their rights to self-governance and self-determination. To guarantee the exercise, enforcement and realization of these rights, the ICCs/IPs shall prepare their own ancestral domain sustainable and protection plan (ADSDPP) in accordance with their customary practices, laws and tradition. The formulation of the ADSDPP is a tool for the empowerment of ICCs/IPs towards the fulfillment of the general well-being of the current ICC/IP generation without comprising the need of future generations.

## **Article 6**

### **Effective protection and remedies**

178. As mentioned in the previous Philippine implementation reports, equal protection of the law and due process are provided for in Section 1, Article 13 of the 1987 Constitution which states that “no person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws”.

179. With respect to the Concluding Observations/recommendation on the previous report regarding elaborated information on the functions and accomplishments of the Commission on Human Rights of the Philippines and the Office of the Ombudsman, the 1987 Constitution provided for the establishment of a Commission on Human Rights. Section 17, Article XIII of the Constitution states, “There is hereby created an independent office called Commission on Human Rights.” Section 17 establishes the composition of the Commission, the qualifications of the members and the automatic and the regular release of its annual appropriations.

*Commission of Human Rights of the Philippines*

180. By virtue of Executive Order No. 163 signed by former President Corazon C. Aquino on 05 May 1987, Commission on Human Rights was formally established as an independent body mandated to investigate complaints of human rights violations as well as promote and protect human rights, that being the civil, political, economic, cultural and social rights articulated in the international human rights instruments.

181. Section 18, Article XIII of the Constitution provides that the Commission on Human Rights has the following functions: (a) Investigate all forms of human rights violations including civil and political rights; (b) Adopt operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court; (c) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines as well as those Filipinos residing abroad; (d) Exercise visitorial powers over jails, prisons or detention facilities; (e) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights; (f) Recommend to the Congress effective measures to promote human rights and provide compensation to victims; (g) Monitor Philippine Government’s compliance with international human rights treaties; (h) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority; (i) Requests the assistance of any department, bureau, office or agency in the performance of all its functions; (j) Appoint its officers and employees in accordance with law; and, (k) Perform such other duties and functions as may be provided by law.

182. In relation to the Government, the CHRP is an advisor and “prescriber” of human rights protection standards, and is an independent monitor and evaluator of government policies, actions, programs and performance.

183. The CHRP, as an advocate of human rights provides inputs on proposed legislative bills. In relation to civil society, CHRP has been a mobilizer of people and resources, coordinator of programs and activities, advisor on standards, trainer of trainers, and human rights educator of the general public, *inter alia*.

184. In relation to human rights victims, the CHRP is a protector against violators, a mobilizer for protection services, a counselor for legal and non-legal remedies, an educator, and provider of other direct assistance and services.

185. Under its Human Rights Protection Program, the CHRP was able to investigate cases of alleged extrajudicial killings. It issued clearances to police and military personnel, provided

financial assistance to victims of human rights violations, conducted visitorial services, conducted workshops on torture prevention, advocated for the abolition of death penalty, *inter alia*.

186. On Human Rights Promotion, the CHRP was able to accomplish the integration of human rights education in schools, human rights education for the police and military, instituted barangay human rights action centers, assisted in training and capability building of international human rights institutions in Asia, conducted regional human rights promotion, conducted women and children rights advocacy, participated in inter-agency activities, conducted trainings on human rights based approach in governance and development, actively participated during human rights week celebration, established partnership cooperation with foreign counterparts, and conducted human rights workshops for judges and lawyers.

187. On Human Rights Monitoring, the CHRP had issued human rights advisories, submitted position papers on legislative bills and other human rights policies, monitored the treaty reporting compliance by the Government, and supported the strengthening of the Presidential Human Rights Committee.

#### *Office of the Ombudsman*

188. The 1987 Constitution, in its Declaration of Principles and State Policies, mandated that the State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption. It has likewise reiterated that public office is a public thrust and that public officers and employees shall at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives. This led to the creation of the Office of the Ombudsman, as an “independent body” and “Protector of the People”. It has vested the said Office with broad and comprehensive powers in order to institute reforms in the bureaucracy and prosecute erring public officials.

189. Given the nature of the Office of the Ombudsman under the fundamental law, then President Corazon C. Aquino issued Executive Orders No. 243 and 244 on 24 July 1987 decreeing the formal organization of the Office of the Ombudsman, and transforming the former Tanodbayan into the Office of the Special Prosecutor and making it an organic part of the Office of the Ombudsman.

190. The said Executive Orders were superseded by Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, which was approved on 17 November 1989. R.A. 6770 provided the structure and functions of the said office. The same law reiterated the integration of the Office of the Special Prosecutor as the prosecutorial arm of the Office of the Ombudsman.

191. Under both the Constitution and R.A. 6770, the Ombudsman is principally tasked to investigate on its own or on or upon complaint by any person, in any form or manner, any act or omission of any public officer or employee, including those in government-owned or controlled corporations, which appears to be illegal, unjust, improper, or inefficient. The Ombudsman is further mandated to render public assistance, mobilize front line service providers in various government agencies through the Ombudsman coordinators to ensure swift responsive and

quality service to the citizens, and to conduct graft prevention programs with the objective proactive of proactively preventing the occurrence of corruption and attain a graft-intolerant society.

192. On 12 May 1988, the Office of the Ombudsman became operational upon the appointment of the Ombudsman and his Overall Deputy by the President. Shortly thereafter, the Deputy Ombudsmen for Luzon, Visayas, Mindanao and the military were likewise appointed by the same authority. It exercises oversight role by monitoring the general and specific performance of government officials and employees in order that the law may be administered and executed justly, fairly and equally for all. It also ensures that prompt, efficient and steady flow of service is accorded to the citizens.

193. It effectively enlist broad support of multi-sectoral stakeholders by establishing a continuing partnership with other government agencies, civil society, non-government organizations, business, academe, youth and other major sectors of society for a nationwide campaign for integrity in public service, the propagation of sound Filipino values of honesty, discipline, respect for elders and authority, as well as promotion of a transparent accountable and effective governance.

194. The Office of the Ombudsman initiates the conduct of review of the policies, systems, procedures and practices in the performance of the critical functions of government agencies and makes recommendations for a systematic operation of the government machinery free from bureaucratic inconveniences for the purpose of formulating strategies designed to address corruption vulnerabilities in the organization. It also extends assistance to citizens in obtaining basic public services from government. It may prevent or stop a public officer or a government agency from performing an act which might cause injury to the Government or to the people. Corruption prevention also embraces the study and adoption of ways and means to minimize, if not to eliminate, the opportunities for committing corruption, to awaken the people's awareness of its evils and solicit their cooperation in its eradication, as well as to maintain efficiency in government operations.

195. The Ombudsman exercises unique prerogatives. It conducts preliminary investigation on criminal cases which may be filed with the Office. It also has the authority to conduct the fact-finding investigation to validate anonymous complaints with sufficient leads or gather evidence for case build-up like the police and National Bureau of Investigation (NBI). This has resulted in the prosecution of cases which otherwise would have been set aside for insufficiency of evidence.

196. The Ombudsman, through the Office of the Special Prosecutor, prosecute cases filed against high ranking officials in the Sandiganbayan while those low ranking officials in the regular courts are handled by some Ombudsman Graft Investigation and Prosecution in the Department Justice. It may suspend or dismiss erring public officers and employees, including Cabinet Secretaries and all other high-ranking officials, except only the President and members of the judiciary and the congress. In all other criminal cases, however, all public officials and employees, without any exemption, are under the Ombudsman's investigative jurisdiction.

197. The Supreme Court decision in the landmark case of Cruz et al. versus Secretary of Environment and Natural Resources et al. was hailed by Indigenous Peoples nationwide together with support from the civil society, the Commission on Human Rights in upholding the constitutionality of the Indigenous Peoples Rights Act on 06 December 2000.

198. As mentioned in the earlier part of this report, the Philippine criminal justice system is built upon five pillars. It is noteworthy to reiterate at this juncture that owing to the diversity in the indigenous peoples' justice systems and conflict resolution institutions, which are based on traditional practices and serve as alternative dispute mechanisms, the Philippines through IPRA and Presidential Decree 1083 has institutionalized the use of alternative dispute resolution systems as an important mechanism for reaching amicable settlement.

199. Presidential Decree 1083 accords recognition to the Shari'a justice system based on Islamic religious law on civil matters. Muslim tradition involves strong roles played by religious leaders in informally settling disputes. Justice is guaranteed to all regardless of any social and political biases. Among Muslim Filipinos, informal settlements particularly on cases involving family and property matters are preferred over the formal (court) processes. Shari'a court judges themselves have assumed the role of customary elders that citizens can seek help to resolve conflicts, an indication of the pervasive informal nature of Muslim dispute resolution traditions that are deeply imbedded in practice. Criminality continues to remain within the purview of the Revised Penal Code and other laws in consonance with the constitutionally guaranteed rights of all Filipinos.

## **Article 7**

### **Education and teaching**

200. The Philippines reiterates the information under this item which was given during the previous reports.

201. The 1987 Constitution mandates all educational institutions to "inculcate patriotism and nationalism, foster love of humanity, respect for human rights. ..." in Section 3 (2), Article 14.

202. The Government's education strategy flows from the Education for All (EFA) 2015 Program, the overarching framework for basic education. Proposed reforms under the Department of Education's (DepEd) Basic Education Sector Reform Agenda (BESRA) have also been undergoing refinement, e.g., the Schools First Initiative (SFI) and empowering the local communities to improve education.

203. DepEd has incorporated basic Human Rights Education (HRE) in the elementary and secondary levels of the education system. Human rights values and principles are integrated into the school curricula to promote human dignity, humanism, sense of nationhood, work ethics, and other similar values. HRE is provided in the non-formal system for out-of-school youths, children, and adults. Children and women's rights and their protection are also given emphasis.

204. The Department of Education through the Office of the Undersecretary for Muslim Affairs has created the road map for upgrading the quality of Basic Education for Filipino Muslims where the curriculum for public elementary and private Madaris (teachers) all over the country

were unified and standardized through DepEd Memorandum Circular No. 51, Series of 2004. The program aims to improve the education and quality of life of Muslim Filipinos while it contributes to the peace process. The program will likewise serve as an incentive for private Madaris to implement the standard curriculum and to facilitate the mainstreaming of the Madrasah Education into the national educational system.

205. Moreover, Section 3 (3), Article XIV of the 1987 Philippine Constitution provides that *“X X X at the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the Government.”*

206. The following provisions of IPRA highlights the State’s recognition, respect, promotion and fulfillment of ICCs/IPs’ customary ways and traditional practices:

- Section 27 of IPRA provides that *“the State shall recognize the vital role of the children and youth of ICCs/IPs in nation-building and shall promote and protect their physical, moral, spiritual and social well-being. Towards this end, the state shall support all government programs intended for the development and rearing of the children and youth of ICCs/IPs for civic efficiency and establish such mechanisms as may be necessary for the protection of the rights of the indigenous children and youth.”*
- Section 28 provides that *“the State, shall through the NCIP, provide a complete, adequate and integrated system of education, relevant to the needs of the children and young people of ICCs/IPs.”*
- Section 29 provides that *“the State shall respect, recognize and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider this right in the formulation and application of national plans and policies.”*
- Section 30 provides that *“the State shall provide equal access to various cultural opportunities to the ICCs/IPs through the educational system, public or private cultural entities, scholarships, grant and other incentives without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children/youth shall have the right to all levels and forms of education of the State.”*
- Section 31 provides that *“the State shall endeavor to have the dignity and diversity of the cultures, traditions, histories and aspirations of the ICCs/IPs appropriately reflected in all forms of education, public information and cultural-educational exchange. Consequently, the State shall effective measures, in consultations with the ICCs/IPs concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among ICCs/IPs and all segments of society. Furthermore, the Government shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. The State shall likewise ensure the*

participation of appropriate indigenous leaders in schools, communities and international cooperative undertaking like festivals, conferences, seminars and workshops to promote and enhance their distinctive and heritage and values.”

- Section 32 provides that “the ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.”
- Section 33 provides that “the ICCs/IPs have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial objects; and, the right to the repatriation of human remains. Accordingly, the State shall take effective measures, in cooperation with the ICCs/IPs concerned, to ensure that the indigenous sacred places, including burial sites, be preserved, respected and protected. To achieve this purpose, it shall be unlawful to: (a) Explore, excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and, (b) Deface, remove or otherwise destroy artefacts which are of great importance to the ICCS/IPs for the preservation of their cultural heritage.”
- Section 34 provides that “the ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.”
- Section 35 provides that “access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within ancestral lands and domains of the ICCs/IPs only with a free and prior consent of such communities, obtained in accordance with customary laws of the concerned communities.”
- Section 36 provides that “the State shall recognize the right of ICCs/IPs to a sustainable agro-technological development and shall formulate and implement programs of action for it effective implementation. The State shall likewise promote the bio-genetic and resource management systems among the ICCs/IPs and shall encourage cooperation among government agencies to ensure the successful sustainable development of ICCs/IPs.”

- Section 37 provides that “the ICCs/IPs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artefacts with the financial and technical support of the national government agencies.”

207. NCIP was also able to provide educational assistance to 25,167 Indigenous Peoples students, of which 11,025 already graduated (reckoned from June 1999 until March 2008), with a corresponding budget of Php563.933 million. School Year 2008-2009 saw an increase in allocation, i.e., Php116.621 million.

208. IP students also receive yearly scholarship grants under the NISGP and SEGEAP programs which were collapsed into one (1) and renamed Scholarship Program for Indigenous Ethnic Peoples by virtue of Commission on Higher Education (CHED) Resolution No. 435, Series of 2005 and reiterated by CHED Memorandum Order No. 28, Series of 2005.

209. The Department of Education also issued Memorandum Order No. 42, Series of 2003 for the establishment of primary schools in IP areas with the NCIP as a lobbying and monitoring partner. Moreover, the Department of Education also provides continuing hiring of IP teachers.

210. The NCIP is currently exerting efforts on the indigenization of the current educational system. It is currently developing an IP Core Curriculum for Alternative Learning System (ALS) in coordination with the Department of Education. The partnership likewise continually enhances Preparation of Appropriate Learning Materials. Four pilot areas have been distributed to the different regions per year for FYs 2005 to 2007. The program adheres to participatory approach where IPs from the pilot communities are primarily involved in the processes in the validation of the Core Curriculum and preparation of learning materials.

-----