

PHILIPPINES

CESCR E/1990/23

(arts. 13-15)

113. The Committee examined the initial report of the Philippines concerning the rights covered in articles 13 to 15 of the Covenant (E/1988/5/Add.2) at its 8th, 9th and 11th meetings, held on 19 and 22 January 1990 (E/C.12/1990/SR.8, 9 and 11).

114. The representative of the State party introduced the report and replied to the written questions prepared by the pre-sessional working group of the Committee. He stated, *inter alia*, that the report, which covered the period of 1979-1981, was virtually obsolete in view of the very important events which had occurred in the Philippines since 1986 and which had, in particular, resulted in the adoption of a new constitution. In his statement, the representative proceeded, point by point, to update orally the information contained in the written report.

General Matters

115. As regards the general framework for the application of the Covenant, the Committee wanted some more detailed and up-to-date information on the land and the people; the economic, social and cultural characteristics of the country; the legal framework for the protection of human rights; the changes in the field of education and culture following the fall of the Marcos régime; and the measures adopted to ensure that the rights of minorities were protected in the country.

116. Information was also requested on the subject of Government policy towards emigration and the steps taken by the Government in the field of education since the adoption of the Constitution in 1987. Some members of the Committee wished to have more information on the difficulties encountered by the Government in applying the provisions of the relevant articles of the Covenant.

117. In his reply, the representative of the State party supplied the Committee with population data and mentioned, *inter alia*, that the literacy rate of the population was 85.4 per cent. He emphasized that the existing Constitution was the fruit of the peaceful revolution of 1986, which had put an end to 20 years of the Marcos régime and had restored democracy, a major component of which was respect for and protection of human rights. After the revolution, the Presidential Human Rights Commission had been set up by President Corazón Aquino and, on its initiative, the Philippines had ratified several international human rights instruments, including the International Covenant on Civil and Political Rights and the Optional Protocol thereto. International human rights instruments ratified by the Philippines, he pointed out, formed an integral part of domestic legislation.

118. While describing the legal framework within which the new Constitution placed the protection of human rights, he quoted article II, section 11 of the Constitution, which states that: "The State values the dignity of every human being and guarantees full respect for human rights". He also stated that the 1987 Constitution contained a bill of rights which was much wider than that contained

in the earlier Constitution. A detailed description of the relevant provisions of the Constitution was given, together with an account of the changes that had occurred in Government policy in the field of education and culture since the fall of the Marcos régime. The representative informed the Committee that information concerning minority rights had been supplied by his country to the Human Rights Committee in his initial report ^{4/} and to the Committee on the Elimination of Racial Discrimination in his eighth, ninth and tenth reports. ^{5/} He also gave some replies to the questions on emigration, academic and university freedoms and the difficulties encountered in applying the provisions of articles 13 to 15 of the Covenant.

Article 13: Right to education

119. The Committee wished to know what percentage of the national budget was devoted to education; whether the Government of the Philippines received any assistance from foreign countries or the United Nations to promote the right to education; what measures the Government was taking to eliminate the distinctive two-tier system of higher education; what were the “values” whose importance for education was emphasized in the Constitution; and what were the substantive provisions of the Magna Carta for Teachers, who supervised its application and what protection it gave the teachers.

120. Some members of the Committee asked for details of the measures adopted by the Government to ensure access by all categories of the population to quality education and to close the qualitative gap between the forms of teaching given in the various establishments; on the special activities provided in the case of gifted children; on the number of pupils being taught in English, on the one hand, and in Filipino, on the other. They also wished to know the results of the literacy programme which had been organized for teachers from the ethnic communities.

121. In his reply, the representative stated that, for the academic year 1987/88, the Government had devoted 17.25 per cent of the national budget to education, as compared with 10.5 per cent during the 1983/84 academic year. That showed that the Government was devoting to education financial resources which correspond to the rapidity of the demographic expansion of youth. He mentioned that his country was receiving loans and subsidies under ODA and described the distribution of the resources thus received among the corresponding sectors. He gave a detailed description of the steps taken by the Corazón Aquino Government to democratize teaching at all levels; of the system of programming the public investment; of the Magna Carta for Public School Teachers and of the teachers recruitment system. He stated that education placed emphasis on physical values (hygiene and health), intellectual values (knowledge and critical spirit), moral values (integrity and discipline), spiritual values (faith in God), social values (sense of responsibility, respect for other people, the public interest, respect for human rights, non-violence and popular participation) and political values (nationalism, civil sense and patriotism). Those

^{4/} CCPR/C/50/Add.1/Rev.1 and Corr.1.

^{5/} CERD/C/172/Add. 17.

values had been defined by the Ministry of Education, Culture and Sports, which was responsible for embodying them in the educational system.

122. As for the disparity between the élite universities and those in the so-called “university belt” in Manila, he stated that many institutions in the university belt were on par with the élite universities, but such universities differed from the élite universities in the facilities which they could offer. Having described the measures taken in order to improve the quality of education in all universities, he stated that the Philippine Government fully recognized that there was a gap between what the law stated and what actually existed in practice, but it was handicapped by a lack of resources. The information requested was given on pre-school education; functional literacy programmes; the special schools for gifted children; the ownership of private schools and the use of English or Filipino in schools.

Article 14: Principle of free and compulsory education

123. The members of the Committee asked whether the principle of free and compulsory primary education was realized in accordance with the provisions of article 14. The representative was also asked to explain the financial implications of secondary and tertiary education.

124. Some members of the committee asked for clarification regarding the concept of education being free of charge and, in particular, whether it covered everything a pupil might need: school supplies, meals and clothing. They also wanted to know if any citizens of the Philippines had already approached the courts to enforce their right to education, as set forth in the Constitution, including the principle of primary education free of charge.

125. In reply, the representative of the State party said that within the context of the reorganization of all the educational systems carried out in recent years in the Philippines, steps had been taken to democratize all education, including free secondary education, subsidies to private schools, scholarships (particularly for the members of cultural minorities) and student loans. He emphasized that the principle of free and compulsory primary education was included in article XVI of the Constitution and that the application of that constitutional standard was attested by the percentage of pupils who completed their studies in the primary schools: that figure, which had been 91.1 per cent in 1977/78, had risen to 98 per cent in 1987/88.

126. As to whether the right to education was enforceable, the representative stated that, in so far as the right to education included the obligation of the State to guarantee enjoyment of that right and to undertake to promote the exercise thereof, the citizen could demand it from the State; in principle a citizen could compel the Government to provide free education. However, there was as yet no case-law in that regard.

Article 15: Right to take part in cultural life and to benefit from scientific progress and from the protection of the interests of authors

127. The members of the Committee asked for further information on the steps taken by the Philippine Government to preserve the cultures of minority groups; on the English versus Filipino language debate; on Islamic culture programmes for adults and on programmes utilizing the indigenous alphabet of the Hanunoo Hangyan. Information was requested on the activities of the National Human Rights Commission in the area of education and culture. The Committee asked for an update of the information in the report concerning science and technology and for a description

of the policy changes and institutional changes in the country.

128. Some members of the committee wanted more information on the subject of the “Barangay” schools, which gave vocational education in various areas. They also asked whether the Philippine Government had any programme for the preservation of the Spanish language which, apart from the fact that it constituted a link with the other Spanish-speaking countries, was an essential part of the cultural heritage of the Philippines. It was also asked whether there was any legislation in the Philippines to guarantee freedom of scientific, literary and artistic creation and production and to protect the moral and material benefits resulting from scientific, literary or artistic work.

129. In his reply, the representative of the State party informed the Committee that the Filipino population spoke 70 languages and dialects and that the teaching languages were English and Filipino. While the loss of Spanish as an official language was to be regretted, the influence of Spain on Philippine culture was none the less still strong. He mentioned that, during the deliberations on adoption of the 1987 Constitution, the State had been encouraged to promote Spanish as a voluntary and optional language.

130. The representative said that the protection of the intellectual property, was adequately covered by domestic legislation; furthermore, the Philippines was party to the Paris Convention for the Protection of Intellectual property, the Bern Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention.

131. The representative of the State party supplied the Committee with the information requested concerning the preservation of minority cultures, pointing out that it recognized, respected and protected the right of the indigenous communities to preserve and develop their culture and their traditions; guaranteed equality of access to education and encouraged and supported research and studies in the area of art and culture. Under article XII of the Constitution, the State protected the rights of the ethnic communities to their ancestral lands. He described practical steps taken to implement those constitutional provisions, including the establishment of the Office of Muslim Affairs, the Office of the Northern Cultural Communities and the Office of the Southern Cultural Communities.

132. Replying to the question on the autonomy of the Muslim regions, the representative recalled that the Constitution provided for the establishment of two autonomous regions, one in the Cordilleras and the other in Mindanao. He emphasized that the establishment of autonomous regions grouping populations sharing a common historical and cultural heritage and with identical economic and social structures showed that the right of ethnic minorities and indigenous populations was respected.

Concluding observations

133. In concluding consideration of the initial report of the Philippines, members of the committee thanked the representatives of the reporting State for their frank and sincere attitude in the presentation of the report and in their replies to the Committee’s questions. However, it was noted

that, despite the additional information provided, the replies to the questions had not been sufficiently clear and precise. It was suggested that additional written information would be welcome, and that it should focus on the situations of the most vulnerable groups in Philippine society and the protection of their rights to education, to take part in cultural life and to enjoy the benefits of scientific progress and its applications.

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101. The Committee considered the initial report of the Philippines on articles 10 to 12 of the Covenant (E/1986/3/Add.17) at its 11th, 12th and 14th meetings on 8 and 9 May 1995 and, at its 29th meeting on 19 May 1995, adopted the following concluding observations.

A. Introduction

102. The Committee welcomes the appearance before it of a delegation composed mostly of experts from the capital, and the opportunity to engage in a dialogue with the Government.

103. The Committee notes with regret that no written answers to the list of issues it had raised were given in advance, and that only limited written information was made available to the Committee during the session in response to its requests. Partly as a result, some of the questions raised during the discussion were not answered satisfactorily by the delegation.

B. Positive aspects

104. The Committee welcomes the fact that some of the rights guaranteed by the Covenant have been reflected in the Constitution and in domestic legislation. It also notes with appreciation the frankness with which the delegation acknowledged the existence of various problems, as identified in section D below.

105. The Committee also welcomes the fact that a government policy of land distribution exists in the country and that a start has been made with programmes to relocate some evicted and homeless people. The Committee also welcomes the Government's commitment to increase the amount of public expenditure devoted to the housing sector.

106. The Committee notes that efforts are being made by the Government in order to deal with the AIDS pandemic, with the active participation of WHO.

C. Factors and difficulties impeding the implementation of the Covenant

107. The Committee observes that economic difficulties, aggravated by a strong migration from rural to urban areas and the servicing of the external debt, have had a constraining influence on the implementation of the Covenant.

108. Politico-social obstacles, including oligarchical and entrenched conservative religious influences, have often inhibited and aborted attempts to improve the lot of the disadvantaged classes and to remove some of the sociocultural ills which beset the Philippines.

109. The Committee also notes the highly detrimental consequences of the persisting civil conflict in the south of the country for the effective implementation of economic, social and cultural rights.

D. Principal subjects of concern

110. The Committee was unable to ascertain the precise status of the Covenant in terms of its practical relevance within the judicial system. It notes that the National Human Rights Commission has not been accorded judicial powers in relation to human rights matters and that this has been a matter of some controversy within the Philippines. The delegation was unable to give details of any specific instance in which the Covenant had been successfully applied by domestic courts.

111. With regard to the issue of divorce, the Committee notes the different legal provisions applying in the predominantly Muslim provinces where the Shari'a is given effect and the other parts of the Philippines, where divorce is legally forbidden. The Committee is concerned about the discriminatory aspects of this approach and notes that civil marriage and divorce should be regulated so as to leave to the individuals concerned the duties that religion imposes. The prohibition of divorce often results in the breakdown of families, with highly detrimental consequences, particularly for abandoned women and children and also for the children of subsequent cohabitations, who must, by definition, be born out of wedlock. The Committee also regrets the apparent increase in incidents of domestic violence.

112. The Committee is concerned about the lack of resources devoted by the Government to preventing and combating the economic and sexual exploitation of children. It notes that the official government statistics relating to cases of child sexual exploitation are radically lower than apparently more reliable estimates from a variety of other sources. It is not convinced that the Government is doing enough to satisfy its obligations under the Covenant to seek to protect these children. The same observation applies with respect to the problem of street children. The Committee also expresses regret at the lack of mechanisms to monitor the application of the laws governing the legal minimum age of employment and the protection of children in labour matters, as required by the provisions of the Covenant.

113. The Committee is also concerned about the fact that, in the great majority of detention centres, juvenile offenders are detained together with adults, in contravention of international standards. While the Government has acknowledged the need to redress this situation, efforts to date have been excessively modest.

114. The Committee notes with great concern the situation of Filipino overseas workers, especially women, who often face hardship and humiliation. It notes that significant problems of family disintegration and juvenile delinquency can accompany such massive exportation of labour.

115. The Committee expresses particular concern at the use of criminal-law provisions to deal with problems arising from the inadequacy of housing. It notes in this regard that Presidential Decree (PD) 772 has been used in some cases as a basis for the criminal conviction of squatters and that PD 1818 restricts the right of due process in the case of evictees. While the Committee does not condone the illegal occupation of land or the usurpation of property rights by persons otherwise unable to obtain access to adequate housing, it believes that, in the absence of concerted measures to address these problems, resort should not be had in the first instance to measures of criminal law or to demolition.

116. The Committee has received information from a variety of sources indicating that large-scale forced evictions occur frequently and are estimated to have affected hundreds of thousands of

persons since the ratification of the Covenant by the Philippines. One figure presented to the Committee asserted that some 15,000 families were forcibly evicted between June 1992 and August 1994. The scale of forced evictions and the manner in which they are carried out are of concern to the Committee. The Government itself acknowledges that planned forced evictions may affect up to 200,000 families and that the Government has identified only 150,000 relocation sites. If these estimates are correct a very significant number of persons currently threatened with eviction will not receive adequate resettlement. Such a situation would not be compatible with respect for the right to housing.

117. The Committee is unable to accept statements made by the Government to the effect that the Covenant provides no protection from forced eviction. The right to housing cannot be interpreted as being silent in relation to such an issue and the Committee has consistently drawn the attention of other States parties to this matter.

118. While it is not for the Government itself to build or finance the housing units required to satisfy all of the demand in the country, it should make every effort to ensure that a fair share of the resources available is utilized for making low-cost housing available to the most disadvantaged and vulnerable sectors of society, and enabling the private sector to contribute to that endeavour. The Committee notes, however, that existing expenditures appear to benefit higher-income groups at the expense of the poor.

119. The Committee recognizes the Government's commitment to agrarian reform, as reflected in the Comprehensive Agrarian Reform Programme of 1987. It notes, however, that the implementation of the programme suffers as a result of major loopholes, a lack of funding and the lack of implementation measures. It notes that the Government has failed to meet its own targets and that there appears to be a lack of political will to redress the situation. The inadequacy of the agrarian reform programme appears to have had a negative impact on the full realization of the right to food as enshrined in article 11 of the Covenant.

120. With regard to health services, the Committee notes the Government's plans to privatize and decentralize much of its programme. While there is no reason that the private sector should not be fully involved in the provision of health services, the Committee emphasizes that such an approach does not in any way relieve the Government of its Covenant-based obligation to use all available means to promote adequate access to health-care services, particularly for the poorer segments of the population. The Committee was unable to receive any assurances from the Government that its current plans have sought to address this issue adequately.

121. In terms of the availability of resources, the Committee notes with concern that a greater proportion of the national budget is devoted to military spending than to housing, agriculture and health combined.

122. The Committee notes with concern that, in the face of a rapidly growing population infected by HIV and AIDS, only several hundred of an affected population estimated by WHO to be in excess of 30,000 have been registered under the Government's programme. This would seem to indicate that the programme is either punitive of those who register or is not adequately publicized and made available to victims of the virus. In addition, the Committee was not provided with any

information indicating that the Government is seeking to combat widespread discrimination against the victims of the virus.

E. Suggestions and recommendations

123. The Committee recommends that consideration be given to increasing the proportion of the national budget devoted to slum-upgrading programmes, to community mortgage programmes and to programmes in the field of health and agriculture designed in particular to benefit the poorer groups in society.

124. The Committee also recommends that greater emphasis should be placed, within the framework of official development assistance provided by donor countries, on support for social adjustment programmes for purposes such as the financing of low-interest credit for the poorest farmers, slum-upgrading and other programmes for housing the poor. The Committee recalls that every effort must be made in times of structural adjustment to ensure that the basic economic, social and cultural rights of the poorest and most disadvantaged sectors of the population are protected to the greatest extent possible.

125. The Committee recommends that more detailed, policy-oriented studies be undertaken in relation to the situation of street children and would appreciate receiving information on the number of persons who have been punished for offences relating to the sexual exploitation of children.

126. The Committee urges the Government to take all appropriate measures to implement national legislation and the provisions of the Covenant concerning the protection of children from economic and sexual exploitation in particular, and to promote and guarantee the respect of their rights to education, health and housing.

127. The Committee would wish to receive, within a year, figures concerning the number, age and sector of activity of working children and the measures taken to reduce their number. It also wishes to receive information as to measures taken to reduce the sexual exploitation of children and the number of street children.

128. While the Committee recognizes, in relation to the issue of Filipino overseas workers, that the Government cannot control such emigration, it believes that more can and should be done to inform and educate existing and potential workers about the difficulties they might face abroad and about their rights.

129. The Committee urges the revision of all legislation which is inconsistent with the full enjoyment of equal rights for women and recommends that stronger judicial and other remedies be made available to redress the grievances of women who suffer from domestic violence.

130. The Committee recommends that the Government institute an emergency plan, which should include the identification of benchmarks, to expedite the agrarian reform process and provide mechanisms for the speedy handling of grievances concerning irregularities in the implementation of the Comprehensive Agrarian Reform Programme. The Committee urges the reform of tenancy legislation relating to peasants.

131. The Government should ensure that forced evictions are not carried out except in truly exceptional circumstances, following consideration of all possible alternatives and in full respect of the rights of all persons affected. The Committee urges the Government to extend indefinitely the moratorium on summary and illegal forced evictions and demolitions and to ensure that all those under threat in these contexts are entitled to due process. The Government should promote greater security of tenure in relation to housing in accordance with the principles outlined in the Committee's General Comment No. 4 (1991) and should take the necessary measures, including prosecutions wherever appropriate, to stop violations of laws such as R.A. 7279. In general, the Committee urges that consideration be given to the repeal of Presidential Decrees 772 and 1818 and recommends that all existing legislation relevant to the practice of forced evictions should be reviewed so as to ensure its compatibility with the provisions of the Covenant. The Committee considers that, when relocating evicted or homeless persons or families, attention should be paid to the availability of job opportunities, schools, hospitals or health centres, and transport facilities in the areas selected.

132. The Government should consider the establishment of an independent body legally responsible for preventing illegal forced evictions, and for monitoring, documenting and reviewing any ongoing or planned forced evictions. The Presidential Commission on the Urban Poor could also be given an enhanced mandate to protect housing rights, and to collect accurate and reliable indicators and statistics relating to urban problems such as homelessness, forced evictions, the numbers of those relocated, and the number of squatters.

133. The Committee recommends that the provisions of the Covenant be used as a supplementary guide to the interpretation of relevant domestic legislation and that all relevant domestic courts, tribunals and administrative and other bodies ensure that their decisions are consistent with the obligations contained in the Covenant. In this regard, the Committee recommend the provision of training programmes for the judiciary, the legal profession and other relevant bodies concerning the application of the Covenant.