

Submission by the International Labour Organisation (ILO)

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 4th Cycle, 41st Session

THE PHILIPPINES

(Period Under Review: 2017-2021)

I. BACKGROUND INFORMATION

- 1) The Philippines has ratified a total of 38 ILO Conventions, including all eight Conventions respecting fundamental human rights. Two Conventions were ratified during the period under review—the Labour Relations (Public Service) Convention, 1978 (No. 151) in 2017, and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) in 2019. The ILO regularly examines and provides guidance on the manner in which member States implement ratified Conventions through its system of regular supervision, in which the ILO's Committee of Experts on the Application of Conventions and Recommendations (**CEACR**)—an independent body of expert jurists—examines the reports countries are obligated to regularly submit on the application of ratified Conventions, and on the basis of these reports drafts comments containing specific recommendations to ensure the Conventions' full application.
- 2) Under the regular supervisory system, workers' and employers' organisations are entitled to submit their observations to the CEACR on the extent to which the country is complying with its obligation to fully apply ratified Conventions. The Philippines has regularly been reporting to the CEACR throughout the period in question; the CEACR in turn has drafted comments with respect to several Conventions pertinent to the UPR review.

Issue 1: Civil Liberties and Trade Union Rights

Theme: D45 - Freedom of Association

Linked to: 3d Cycle UPR Recommendations respecting **Impunity** (133.142, 133.145, 133.173, 133.176 and 133.177), **Human Rights Defenders** (133.180, 133.74, 133.178, 133.176, 133.182, 133.158 and **Extrajudicial Killings** (133.13, 133.14, 133.15, 133.16, 133.17, 133.119)

- 3) In the past decade, the CEACR had issued several comments on the Philippines' application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in which it had repeatedly expressed deep concern over the grave allegations of violence and intimidation communicated by both national trade unions and the International Trade Union Confederation (ITUC).

- 4) In its most recent comment (2021)¹, the CEACR noted the ITUC's statement that the situation respecting trade union rights had severely deteriorated since 2019, and was characterized by increased repression against the independent trade union movement and extreme violence against and persecution of unionists, including extra-judicial killings, physical attacks, red-tagging, threats, intimidation, harassment, stigmatization, illegal arrests, arbitrary detention and raiding of homes and union offices, as well as the Government's institutional failure to address these issues, exacerbating the culture of impunity.
- 5) The CEACR noted that the latest allegations submitted by the ITUC included: (i) the extra-judicial killing of 10 trade unionists; (ii) at least 17 cases of arrests and detention, in particular following the police's dispersal of a protest and police raids on union offices and unionists' homes (November-December 2020 and March 2021), as well as additional incidents of arrests and detention since 2019; (iii) 17 cases of red-tagging, intimidation and harassment, including against leaders and members of the ACT, the Kilusang Mayo Uno (KMU), the Philippines National Police Non-Uniformed Personnel Association Inc. (PNP-NUPAI) and other workers' organizations; (iv) 12 cases of forced disaffiliation campaigns and seminars, including for public school teachers, workers at a beverage producing company and palm oil plantation workers; and (v) the establishment of the Alliance for Industrial Peace and Program Office (AIPPO) which would grant the Philippine National Police expanded powers to surveil trade unionists and suppress legitimate trade union activity in the name of combatting insurgency.
- 6) The CEACR further noted the concerns expressed by the ITUC with regards to the adoption of the Anti-Terrorism Act, 2020, and the Memorandum of Agreement entered into by the Philippine Economic Zone Authority (PEZA) and the Philippine National Police (PNP) establishing the Alliance for Industrial Peace and Program Office (AIPPO). The ITUC alleges that the former lays down an overly broad definition of terrorism and is aimed at silencing dissenting voices and repressing legitimate trade union activity. The ITUC additionally submits that the AIPPO would grant the Philippine National Police expanded powers in export processing zones to surveil trade unionists and engage in the practice of "red-tagging"—or suppressing legitimate trade union activity in the name of combatting insurgency. The said expansion of the PNP presence and role in industrial relations matters would also contravene the 2011 and 2012 Joint DOLE-PNP-PEZA Guidelines on the conduct of the PNP and other security forces in labour disputes occurring in export-processing zones. At present the implementing rules and regulations (IRR) of the AIPPO were still being formulated.

Recent Measures Undertaken to Address Freedom of Association Violations

- 7) With regards to the issue of "red-tagging", Senate Bill No. 2121, which seeks to address legal gaps and institutionalize a system of accountability by criminalizing red-tagging and providing for dissuasive penalties against such acts, was filed in March 2021.

¹ https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4124386

- 8) As concerns revitalizing the mechanisms mandated to monitor violations of freedom of association and expedite the prosecution of such cases (including cases involving the extrajudicial killing of trade unionists) by the courts, limited progress was observed in the period under review. The Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons, established by Administrative Order No. 35 of 2012 (AO35 IAC) was reconvened in 2020 following years of inactivity; the AO35 body's operational guidelines were also undergoing a process of review and revision. Additionally another of the monitoring bodies, the National Monitoring Mechanism (NMM) established under the Commission on Human Rights of the Philippines (CHRP), had entered into a data- and information-sharing agreement with the Department of Justice for cases of extrajudicial killings and human rights violations.
- 9) In its 2021 comment the CEACR, while noting the measures summarized above, observed that they had thus far failed to yield meaningful results: virtually all of the numerous outstanding cases involving the killing of trade unionists and other serious infringements on civil liberties remained unresolved, even as new information regarding serious violations of trade unionists' freedom of association rights and civil liberties continued to be received. Furthermore cooperation between the NMM and the DOJ on the handling of cases had yet to take place, in spite of the agreement referred to above.

Recommendations: Further to, and consistent with the recommendations issued by its supervisory bodies, the ILO recommends that the Government:

- (1) Immediately undertake investigations into all allegations of violence in relation to members of workers' organizations with a view to establishing the facts, determining culpability and punishing the perpetrators.
- (2) Adopt full measures to ensure the operationalisation and effective functioning of the monitoring bodies tasked with facilitating the processing of cases of alleged violations of freedom of association, including through the provision of adequate resources.
- (3) Ensure that the Anti-Terrorism Act would not be used in any way to curtail legitimate trade union activities or to justify repression against trade unionists.
- (4) Ensure that the operation of the AIPPO and its implementing rules and regulations will not result in the practice of "red-tagging" of trade unionists and does not unfairly prejudice the exercise of freedom of association rights, particularly the right to organise, in export-processing zones.

Issue 2: Eliminating the Worst Forms of Child Labour

Theme: F33 – Children: Protection Against Exploitation

Linked to: UPR 3d Cycle Recommendations 133.187, 133.195, 133.185, and 133.240

The following paragraphs (10-20) summarise the information noted and recommendations made by the CEACR in its 2020 Observation on the Philippines' application of the Worst Forms of Child Labour Convention, 1999 (No. 182)²

Sale and Trafficking of Children

- 10) In 2018 the Department of Labor and Employment (DOLE) issued Administrative Order No. 551 establishing a DOLE Task Force Against Illegal Recruitment, Recruitment of Minor Workers, and Trafficking in Persons, so as to have more focused, concerted, coordinated and effective programmes of action to combat the illegal recruitment and trafficking of children. It also notes the Government's information on the number of orientation and awareness-raising activities undertaken by the DOLE concerning the worst forms of child labour.
- 11) In April 2017, a Child Protection Compact Partnership (CPC Partnership) was signed by the Inter-Agency Council Against Trafficking (IACAT) and the US Embassy to support the nation's campaign against the trafficking of children. A total of 123 law enforcement officials were trained on such topics as specialized anti-trafficking investigation under this partnership.
- 12) While noting these measures, the CEACR reiterated its concern over the persistently high incidence of trafficking in women and children, the very small number of prosecutions and convictions of traffickers, the insufficient level of understanding of the issues relating to trafficking and the anti-trafficking legal framework among law enforcement officials, and the allegations of complicity of law enforcement officials in the cases related to trafficking of persons. It urged the Government to intensify its efforts to eliminate in practice the trafficking of children by ensuring that thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, including state officials suspected of complicity, and that sufficiently effective and dissuasive sanctions are imposed. It further requested the Government to pursue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age

Compulsory Recruitment of Children for Use in Armed Conflict

- 13) In January 2018, the President signed Republic Act No. 11188 on the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof. The said Act requires the State to take all feasible measures to prevent the recruitment, re- recruitment, use, displacement of, or grave violations of the rights of children involved in armed conflict.
- 14) An Inter-Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC), chaired by the Council for the Welfare of Children (CWC) and comprising

² https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4012525

representatives from various government organisations, had been created. The CWC and the IAC-CSAC, in consultation with the UNICEF Philippines and the Philippine Legislators' Committee, adopted the Implementing Rules and Regulations (IRR) for the Republic Act No.11188 in June 2019.

- 15) The CEACR noted that the June 2019 report of the Secretary-General on children and armed conflict referred to the recruitment and use of 19 children (ten boys and nine girls); 18 by armed groups and one by the armed forces. The United Nations also received additional allegations of recruitment and use of 13 children by such armed groups as the New People's Army, Maute Group and the Abu Sayyaf Group.
- 16) While noting the measures summarized above, the CEACR expressed concern at the continued use and recruitment of children by armed forces and groups. It urged the Government to continue to take the necessary measures to ensure the immediate demobilization of all children and to put a stop, in practice, the forced recruitment of children under 18 years of age into the armed forces and armed groups, including through the effective implementation of Republic Act No. 11188 and its IRR. It also urged the Government to take immediate and effective measures to ensure thorough investigations and prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict.

Commercial Sexual Exploitation of Children

- 17) An initiative entitled SaferKidsPH, spearheaded by the Australian Government and delivered through Save the Children, the Asia Foundation and UNICEF was launched in October 2019. The initiative aimed to create a safer environment for children where the Government and other stakeholders play an active role in: (i) adopting positive behaviour towards protection of children from online abuse and exploitation; (ii) strengthening investigation, prosecution and adjudication of Online Sexual Abuse and Exploitation of Children (OSAEC) cases consistent with national legislation; and (iii) improving service delivery for prevention and protection of children against online sexual abuse and exploitation in OSAEC hotspots.
- 18) The CEACR noted that according to a document by the International Organization for Migration (IOM) entitled Human Trafficking Snapshot, Philippines, September 2018, there were tens of thousands of children being exploited and abused in cybersex dens across the Philippines. It noted with deep concern the significant number of children subjected to commercial sexual exploitation, and the low number of prosecutions and convictions in this regard. It urged the Government to take the necessary measures to ensure the effective enforcement of the Anti-Child Pornography Act, by ensuring thorough investigations and prosecutions of persons who use children in the production of pornography and in pornographic performances. It also urged the Government to take immediate and effective time-bound measures to prevent the engagement of children in commercial sexual exploitation as well as to remove those who are victims of such forms of child labour and to provide for their rehabilitation and social reintegration.

Child Domestic Workers

- 19) In July 2017, the DOLE issued an Administrative Order providing for guidelines for the effective enforcement of the rights of domestic workers under Republic Act No.10361, as well as on the terms and conditions of employment of children under Republic Act No.9231. The DOLE, with support from the ILO, conducted trainings for 35 DOLE personnel to enhance their capacity in detecting and assessing child labour incidents. In 2017, the Bureau of Workers with Special Concerns (BWSC) conducted capacity enhancement training for regional kasambahay focal persons in addressing the vulnerability of domestic workers.

- 20) The CEACR also noted that according to the 2018 ILO document *Social Dialogue to Achieve Sustainable Development Goals: Formalising the Informal Economy, Country Brief, Philippines*, domestic work is the largest single source of wage employment for women as well as for young workers. It encouraged the Government to strengthen efforts to prevent children under 18 years from engaging in hazardous working conditions in domestic work, including through the effective implementation of the road map for the elimination of child labour. It also requested information on the measures taken in this regard as well as on the results achieved in terms of the number of child domestic workers who have been protected or withdrawn from child labour and rehabilitated. It also urged the Government to strengthen efforts to ensure Republic Act No. 10361 was effectively applied.

Recommendations: With reference to the CEACR recommendations summarised above, the ILO recommends that the Government of the Philippines:

- 1) Intensify its efforts to eliminate the trafficking of children by ensuring that thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, including state officials suspected of complicity, and to pursue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age.

- 2) Ensure the immediate demobilization of all children and to put a stop, in practice, the forced recruitment of children under 18 years of age into the armed forces and armed groups, including through the effective implementation of Republic Act No. 11188 and its IRR. It also urged the Government to take immediate and effective measures to ensure thorough investigations and prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict.

- 3) Ensure the effective enforcement of the Anti-Child Pornography Act by ensuring thorough investigations and prosecutions of persons who use children in the production of pornography and in pornographic performances; take immediate and effective time-bound measures to prevent the engagement of children in commercial sexual exploitation; and remove those who are victims of such forms of child labour and provide for their rehabilitation and social reintegration.

- 4) Strengthen efforts to prevent children under 18 years from engaging in hazardous working conditions in domestic work, including through the effective implementation of the road map for the elimination of child labour.

Issue 3: Ratification of the Indigenous and Tribal Peoples Convention

Theme: G3 – Indigenous Peoples

Linked to: Philippines UPR 3d Cycle Recommendation No. 133.6: *“Promptly ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization (Guatemala)”*

The ILO has held several discussions with the Government over the years respecting the possibility of ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

In 2018, the National Tripartite Industrial Peace Council (NTIPC) issued Resolution No. 3 declaring its support for C No. 169’s ratification. Additionally the National Commission on Indigenous Peoples (NCIP) had issued several administrative orders regarding the implementation of the Indigenous Peoples’ Rights Act (IPRA), 1997, including orders revising the guidelines on (1) the mandatory representation of indigenous peoples in local legislative councils and policy-making bodies, and (2) the rules on the delineation and recognition of ancestral domains and ancestral lands .

Endorsement of the instrument’s ratification by the Office of the President, however, remains pending.

Recommendation: The ILO recommends that the Government of the Philippines

- 1) Ratify the Indigenous and Tribal Peoples Convention, 1989 (Number 169), in line with 3d Cycle review recommendation No 133.6 (Guatemala).