

Country Briefing on Freedom of Religion or Belief in the Universal Periodic Review Process - Philippines

Key points

An examination of the Universal Periodic Review (UPR) of the Philippines over the three cycles (2008, 2012 and 2017) reveals:

- Far less concern for freedom of religion or belief (FoRB) challenges than other major challenges including extrajudicial killings, President Duterte’s war on drugs, allegations of torture and other rights violations under anti-terrorism legislation, disingenuously named “Human Security Act”.
- The Government guarantees FoRB in its constitution and this issue has featured very sparingly in its reports to the UPR.
- Concerns for the FoRB of Indigenous peoples to practice their traditions and religious-based discrimination towards Muslim women and girls.

Key UPR Recommendations on FoRB

The following recommendation was made on FoRB across the three cycles:

- The Government must take measures to ensure that economic activity does not affect indigenous peoples’ rights, which includes their spiritual beliefs, and expressed concern.

Follow-up action for parliamentarians

Whereas the Government of The Philippines has not faced criticism under the UPR on FoRB matters, *Parliamentarians must nevertheless follow-up in order to:*

- Ensure that the universally recognised rights of indigenous peoples are respected,
- Secure revision of laws regulating mining activities in order to ensure respect for the FoRB of indigenous peoples,
- Ensure that discrimination on the basis of religion be monitored, investigated and remedied,
- Ensure that provisions on FoRB for the Muslim communities in autonomous regions are respected, and
- Ensure that incidents, reported outside of the UPR, of public statements – via the internet and social media – denigrating the beliefs or practices of particular religious groups, particularly Muslims, or non-believers be properly investigated.

The situation of FoRB in Indonesia as revealed in the UPR is outlined hereafter.

What is the UPR?

The UPR of the United Nations Human Rights Council (HRC) is a peer-review process to foster dialogue on human rights and to improve adherence to universal standards and best practices .

It was launched in 2007 through UN General Assembly Resolution 60/251.

Every 4.5 years each Member State’s human rights record is examined by peers.

A number of key documents are submitted:
National Reports from Member State concerned,
Information from UN bodies and treaty-based rights mechanisms, and
Information provided by relevant stakeholders, including civil society and think-tanks.

The State under review (SUR) is evaluated on its compliance with the international human rights standards and best practices.

The SUR receives recommendations from other States on how the national human rights practices could be improved.

The SUR may accept, note or reject each recommendation made.

Background

Demographics.

1. The Philippines has a total population of over 102 million people, spread over 300,000sq km and 7107 islands. It is a diverse population comprising Tagalog (28.1%), Cebuano (13.1%), Ilocano (9%), Bisaya/Binisaya 7.6, Hiligaynon Ilonggo (7.5%), Bikol (6%), Waray (3.4%) and other (25.3%). (CIA *World Factbook*, 2017)

The religious mix.

2. The majority of the population is Catholic (82.9%). The remainder comprise Muslim (5%), Evangelical (2.8%), Iglesia ni Kristo (2.3%), other Christian (4.5%), other (1.8%), unspecified (0.6%), none (0.1%). (CIA *World Factbook*, 2017)

Legal Provisions on FoRB.

3. The Bill of Rights, contained in Art. III of the Constitution enshrines the free exercise of religion. Article III(2), Section 5 stipulates that “no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.” Article 6 on the Legislative Department provides in Section 29(2) provides “No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.” Article 9, Section 3(1) provides that “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.”
4. With regard to indigenous cultures, Article 2, Section 22 the State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. Article 12, Section 5 provides that “the State, subject to the provisions of this 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. The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.” Article 14, provides in Section 17 that “the State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.” Article 16 provides in Section 12 that “The Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities, the majority of the members of which shall come from such communities.” The Philippines is a party to all the core international conventions on human rights, though it is not party to several optional protocols, notably to the Conventions Against Torture (OPCAT), Persons With Disabilities (OP/CPD) and for the Protection of all Persons from Enforced Disappearance (OP/CED). The religious

beliefs and practices of indigenous peoples is also protected in the Indigenous Peoples Rights Act (IPRA) 1997. The latter defines such peoples in Section 3 (d) as those who differentiated themselves through, *inter alia*, resistance to non-indigenous religions. Section 33 stipulates that indigenous peoples “shall 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.” In this connection, Section 4 (a) highlights their spiritual and cultural bonds to their lands. Section 32 stipulates a right to restitution of “spiritual property” taken without their consent.

Philippine Government Submissions

5. The Government advanced in its first report that all faiths are freely and openly practiced by in the Philippines. In subsequent reports across three cycles no FoRB concerns were reported on. It noted that the Philippines has been fostering an enabling environment to promote interfaith dialogue. It has: 1) promoted laws to safeguard individual rights to freedom of religion and worship and 2) promoted various programs aimed at the same and adopted executive Order No. 626 to create a National Committee on Interfaith Cooperation (NCIC). It noted robust civil society including faith based organizations.
6. In relation to the administration of justice for Muslim Filipinos, it noted that Muslim justice is based on religion.
7. In relation to indigenous peoples’ rights and traditional practices, the Government noted that it promotes and protects the rights of indigenous cultural communities and indigenous peoples and observes the provisions of the IPRA of 1997. It noted that it advocates responsible mining through the application of more stringent rules under the new mining policy that takes into account the impact of extensive mining operations on indigenous peoples and the environment.

Stakeholder submissions across three cycles

8. The most significant issue raised in relation to FoRB concerned indigenous peoples and the devastation to their traditional spiritual beliefs and practices as a result of unbridled mining. A Joint Submission by Catholic Agency for Overseas Development *et.al.* noted the lack of respect for indigenous peoples’ traditional religions and beliefs which has led to the destruction of their sacred mountains and sources of medicinal plants. This has happened in Subanon at Mount Canatuan despite the recognition of their ancestral lands. Indigenous Peoples Rights Monitor (IPRM) recalled that the Philippines had adopted IPRA 1997 for the recognition of indigenous peoples’ rights, though the Supreme Court affirmed prior right of state over national resources. Unrepresented Nations and Peoples Organization (UNPO) also noted in 2012 the same issue and KAMP further noted the undermining effect of the Mining Act of 1995 on IPs. The Commission on HR of Philippines recommended that the Philippines ratify ILO Convention 169 on Indigenous and Tribal Peoples. Concern for the collective rights of indigenous peoples featured in many submissions in 2017. The National Council of Churches in the Philippines called attention in 2012 to the killings of church people who acted in support of indigenous rights.

9. The desecration of places of Church mission and worship and other places was called for by the United Church of Christ in the Philippines, which noted that desecration and persecution of its members offended religious rites/practices and ministries.
10. Another issue concerned religious based discrimination against girls and women. The Human Rights Committee recommended in 2017, and the Committee on the Elimination of Discrimination against Women (CEDAW) previously in 2008, that the Code of Muslim Laws be revised to repeal the provisions discriminating on the basis of religion regarding the minimum age of marriage for girls. The code allowed for marriage of girls below the age of 18. Asian Indigenous Tribal Peoples Network (AITPN) also raised the issue in 2008.
11. Furthermore, CEDAW had noted in 2006, concern for the situation of Muslim women in Mindanao.
12. The Women's Legal Bureau noted continued government tendency to over privilege natural family planning, strengthening religious prejudices against those who opt to choose artificial contraceptive methods.

Observations by Other States

13. Delegations in the Working Group did not make any significant recommendations on FoRB. Some, however, noted that the Government must take measures to ensure that economic activity does not affect indigenous peoples' rights, which includes their spiritual beliefs, and expressed concern (Mexico, Russian Federation, Thailand). In relation to their FoRB, we may note here the State's duties, under Section 33 of the 1997 Act, to:

[T]ake effective measures, in cooperation with the ICCs/IPs concerned to ensure that 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 archaeological 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.

References

General Reference

CIA *World Factbook*, 2017.

Constitution of the Philippines

References on the UPR of the Philippines

Documents on the UPR of Southeast Asian States are available on the websites of UPR Info and of the OHCHR. They consist of National Reports, Stakeholder Submissions and Recommendations by Peers. For The Philippines all documents are available as follows:

UPR Info: <https://www.upr-info.org/en/review>

OHCHR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>

UPR First Cycle 2008

1. Compilation Prepared by the Office of The High Commissioner For Human Rights, In Accordance With Paragraph 15(B) Of The Annex To Human Rights Council Resolution 5/1 Philippines* Document A/HRC/WG.6/1/PHL/2 31 March 2008
2. National Report Submitted In Accordance With Paragraph 15(A) Of the Annex To Human Rights Council Resolution 5/1* Philippines. Document A/HRC/WG.6/1/PHL/1 7 March 2008
3. NGO Submission to the Human Rights Council Universal Periodic Review Mechanism UPR 1st Session, 7th – 18th April 2008. Submission on behalf of Catholic Agency for Overseas Development (CAFOD) Columban Faith and Justice Office. Indigenous Peoples Links. Irish Centre for Human Rights, National University of Ireland Galway. IUCN Commission on Environmental, Economic and Social Policy. Trocaire.23 Nov. 2007
4. Summary Prepared by the Office of The High Commissioner For Human Rights, In Accordance With Paragraph 15 (C) Of The Annex To Human Rights Council Resolution 5/1* Document A/HRC/WG.6/1/PHL/3, 11 March 2008

UPR Second Cycle 2012

5. Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/13/PHL/2, 30 March 2012
6. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, Document [A/HRC/WG.6/13/PHL/1](#), 19 March 2012
7. National Council of Churches in the Philippines, Submission Related to the PHILIPPINES for the Universal Periodic Review May 2012
8. Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5, A/HRC/WG.6/13/PHL/3, 12 March 2012

Third Cycle 2017

9. Draft report of the Working Group on the Universal Periodic Review, Document A/HRC/WG.6/27/L.10, 18 May 2017
10. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/27/PHL/1, 1 May 2017
11. Report of the Office of the United Nations High Commissioner for Human Rights
12. United Church of Christ in the Philippines, Submission to the 3rd UPR of the Philippines
13. UN Report to the 2017 UPR of the Philippines, A/HRC/WG.6/27/PHL/2, 27 February 2017