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PHILIPPINE GOVERNMENT'S OBSERVATION ON THE OFFICE OF THE PROSECUTOR'S REQUEST TO RESUME THE INVESTIGATION INTO THE SITUATION IN THE PHILIPPINES, AND THE OFFICE OF THE PROSECUTOR'S RESPONSE TO THE OBSERVATION

On September 8, 2022, the Philippine Government made a submission in response to the Order of the Pre-Trial Chamber I (“the Chamber”) of the International Criminal Court (“the Court”) inviting the same to provide observations on the Office of the Prosecutor’s (OTP) request to resume the investigation into the situation in the Philippines.

Citing Article 53(1) of the Rome Statute, which provides the considerations for the OTP to initiate an investigation, the Philippine Government submitted that the OTP failed to meet the standards therein for the following reasons: “the OTP misinterpreted available information; the situation is inadmissible under Article 17; and the situation is not of sufficient gravity to justify further action by the Court.” The Philippine Government also submitted that the Court has no jurisdiction over the situation in the Philippines.

On September 22, 2022, the OTP filed its response to the Philippine Government’s Observations. First, it argues that the challenges to jurisdiction and gravity are not properly before the Court, there being no provision in the State to challenge the resumption of an investigation on jurisdictional or gravity grounds at the present stage of proceedings. Second, regarding jurisdiction, it points out that the Philippine Government’s contentions on the lack of a widespread or systemic attack on the civilian population and that the crimes were not in furtherance of any state policy relate to the merits of an eventual prosecution and not to the Court’s jurisdiction. Third, it contends that the gravity challenge is not supported by facts or the law. Lastly, in relation to Article 18, it argues that the Philippine Government has not demonstrated that it has conducted or is conducting national investigations or prosecutions that sufficiently mirror the investigation authorized by the Chamber I.

REGISTRY REPORT ON ARTICLE 18(2) VICTIM REPRESENTATIONS

In August 27, 2021, the Registry of the International Criminal Court (ICC) submitted 204 victim representations to the Pre-Trial Chamber I. These representations are in connection with the investigation into the Situation in the Philippines for which the Office of the Prosecutor (OTP) had previously requested for judicial authorization to commence. Said investigation is in relation to alleged crimes committed in the context of the Philippine Government's so-called War on Drugs (WoD). The victim representations were submitted pursuant to Article 15(3) of the Rome Statute.

The submission, consisting of representations from approximately 1,530 individual victims and 1,050 families, heavily supported the opening of the investigation while also bringing to light several concerns regarding the effectiveness of the Philippine judicial system and the ability and willingness to investigate the WoD-related crimes.

IMPLEMENTATION OF THE HUMAN RIGHTS COUNCIL RESOLUTION 45/33 AND ON THE PROGRESS AND RESULTS OF TECHNICAL COOPERATION AND CAPACITY BUILDING FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE PHILIPPINES

Report of the United Nations High Commissioner for Human Rights

"The present report examines the implementation of Human Rights Council resolution 45/33 and the progress and results of technical cooperation and capacity-building for the promotion and protection of human rights in the Philippines, including through a United Nations Joint Programme on human rights (UNJP) being implemented with the Government of the Philippines and national partners. The High Commissioner also provides recommendations aiming to promote a transformative approach to human rights-based reforms, strengthen an institutional culture of respect for human rights, ensure justice and redress for victims, and contribute towards the prevention of violations recurring."

UNITED NATIONS GENERAL ASSEMBLY RESOLUTIONS

In 2022, the Philippines, as a member of the United Nations General Assembly, voted in favor of various resolutions tackling different international issues. From over 80 resolutions, only the vote to suspend Russia from the UN Human Rights Council¹ and vote demanding protection and aid for Ukraine² were publicized on the government's official news channels.

The resolutions in which the Philippines has **voted favorably** are as follows:

1. Aggression against Ukraine³
2. Humanitarian consequences of the aggression against Ukraine⁴
3. Suspension of the rights of membership of the Russian Federation in the Human Rights Council⁵
4. Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia⁶
5. Financing of the United Nations Interim Force in Lebanon⁷
6. The human right to a clean, healthy and sustainable environment⁸
7. Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations⁹
8. Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba¹⁰
9. Furtherance of remedy and reparation for aggression against Ukraine¹¹
10. Cooperation between the United Nations and the Central European

¹ Joyce Rocamora, *PH votes to suspend Russia from UN Human Rights Council*, PHILIPPINES NEWS AGENCY, (April 8, 2022), <https://www.pna.gov.ph/articles/1171776>.

² Joyce Rocamora, *PH votes for UN reso demanding protection, aid for Ukraine*, PHILIPPINES NEWS AGENCY, (March 25, 2022), <https://www.pna.gov.ph/articles/1170689>.

³ U.N. G.A. Emergency Special Session 11/5, (March 18, 2022)

⁴ U.N. G.A. Emergency Special Session 11/2, (March 24, 2022)

⁵ U.N. G.A. Emergency Special Session 11/3, (April 7, 2022)

⁶ U.N. G.A. Res. 76/267, (June 8, 2022)

⁷ U.N. G.A. Res. 76/290, (June 29, 2022)

⁸ U.N. G.A. Res. 76/300, (July 28, 2022)

⁹ U.N. G.A. Emergency Special Session 11/4, (October 12, 2022)

¹⁰ U.N. G.A. Res. 77/7, (November 3, 2022)

¹¹ U.N. G.A. Emergency Special Session 11/5, (November 14, 2022)

Initiative¹²

11. Special information programme on the question of Palestine of the Department of Global Communications of the Secretariat¹³
12. Peaceful settlement of the question of Palestine¹⁴
13. The Syrian Golan¹⁵
14. Division for Palestinian Rights of the Secretariat¹⁶
15. Committee on the Exercise of the Inalienable Rights of the Palestinian People¹⁷
16. The risk of nuclear proliferation in the Middle East¹⁸
17. Strengthening of security and cooperation in the Mediterranean region¹⁹
18. Comprehensive Nuclear-Test-Ban Treaty²⁰
19. Eleventh Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and its Preparatory Committee²¹
20. Nuclear disarmament²²
21. Ethical imperatives for a nuclear-weapon-free world²³
22. Implementation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction²⁴
23. Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices²⁵
24. The Arms Trade Treaty²⁶
25. Transparency in armaments²⁷

¹² U.N. G.A. Res. 77/19, (November 21, 2022)

¹³ U.N. G.A. Res. 77/24, (November 30, 2022)

¹⁴ U.N. G.A. Res. 77/25, (November 30, 2022)

¹⁵ U.N. G.A. Res. 77/26, (November 30, 2022)

¹⁶ U.N. G.A. Res. 77/23, (November 30, 2022)

¹⁷ U.N. G.A. Res. 77/22, (November 30, 2022)

¹⁸ U.N. G.A. Res. 77/91, (December 7, 2022)

¹⁹ U.N. G.A. Res. 77/93, (December 7, 2022)

²⁰ U.N. G.A. Res. 77/94, (December 7, 2022)

²¹ U.N. G.A. Res. 77/66, (December 7, 2022)

²² U.N. G.A. Res. 77/65, (December 7, 2022)

²³ U.N. G.A. Res. 77/63, (December 7, 2022)

²⁴ U.N. G.A. Res. 77/67, (December 7, 2022)

²⁵ U.N. G.A. Res. 77/68, (December 7, 2022)

²⁶ U.N. G.A. Res. 77/62, (December 7, 2022)

²⁷ U.N. G.A. Res. 77/69, (December 7, 2022)

26. Conventional arms control at the regional and subregional levels²⁸
27. Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons²⁹
28. The Hague Code of Conduct against Ballistic Missile Proliferation³⁰
29. Humanitarian consequences of nuclear weapons³¹
30. Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction³²
31. Treaty on the Prohibition of Nuclear Weapons³³
32. Measures to uphold the authority of the 1925 Geneva Protocol³⁴
33. Reducing nuclear danger³⁵
34. Effects of the use of armaments and ammunitions containing depleted uranium³⁶
35. Steps to building a common road map towards a world without nuclear weapons³⁷
36. Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament³⁸
37. Preventing the acquisition by terrorists of radioactive sources³⁹
38. Promotion of multilateralism in the area of disarmament and non-proliferation⁴⁰
39. No first placement of weapons in outer space⁴¹
40. Strengthening and developing the system of arms control, disarmament and non-proliferation treaties and agreements⁴²

²⁸ U.N. G.A. Res. 77/61, (December 7, 2022)

²⁹ U.N. G.A. Res. 77/57, (December 7, 2022)

³⁰ U.N. G.A. Res. 77/58, (December 7, 2022)

³¹ U.N. G.A. Res. 77/53, (December 7, 2022)

³² U.N. G.A. Res. 77/73, (December 7, 2022)

³³ U.N. G.A. Res. 77/54, (December 7, 2022)

³⁴ U.N. G.A. Res. 77/50, (December 7, 2022)

³⁵ U.N. G.A. Res. 77/74, (December 7, 2022)

³⁶ U.N. G.A. Res. 77/49, (December 7, 2022)

³⁷ U.N. G.A. Res. 77/76, (December 7, 2022)

³⁸ U.N. G.A. Res. 77/47, (December 7, 2022)

³⁹ U.N. G.A. Res. 77/77, (December 7, 2022)

⁴⁰ U.N. G.A. Res. 77/48, (December 7, 2022)

⁴¹ U.N. G.A. Res. 77/42, (December 7, 2022)

⁴² U.N. G.A. Res. 77/78, (December 7, 2022)

41. Destructive direct-ascent anti-satellite missile testing⁴³
42. Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons⁴⁴
43. Implementation of the Convention on Cluster Munitions⁴⁵
44. Establishment of a nuclear-weapon-free zone in the region of the Middle East⁴⁶
45. Programme of action to advance responsible State behaviour in the use of information and communications technologies in the context of international security⁴⁷
46. Developments in the field of information and telecommunications in the context of international security⁴⁸
47. Report of the Conference on Disarmament⁴⁹
48. Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter of the United Nations⁵⁰
49. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan⁵¹
50. Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations⁵²
51. Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories⁵³
52. The occupied Syrian Golan⁵⁴
53. Palestine refugees' properties and their revenues⁵⁵

⁴³ U.N. G.A. Res. 77/41, (December 7, 2022)

⁴⁴ U.N. G.A. Res. 77/39, (December 7, 2022)

⁴⁵ U.N. G.A. Res. 77/79, (December 7, 2022)

⁴⁶ U.N. G.A. Res. 77/38, (December 7, 2022)

⁴⁷ U.N. G.A. Res. 77/37, (December 7, 2022)

⁴⁸ U.N. G.A. Res. 77/36, (December 7, 2022)

⁴⁹ U.N. G.A. Res. 77/89, (December 7, 2022)

⁵⁰ U.N. G.A. Res. 77/129, (December 12, 2022)

⁵¹ U.N. G.A. Res. 77/126 (December 12, 2022)

⁵² U.N. G.A. Res. 77/131 (December 12, 2022)

⁵³ U.N. G.A. Res. 77/130 (December 12, 2022)

⁵⁴ U.N. G.A. Res. 77/125 (December 12, 2022)

⁵⁵ U.N. G.A. Res. 77/124 (December 12, 2022)

54. Assistance to Palestine Refugees⁵⁶
55. Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East⁵⁷
56. Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples⁵⁸
57. Dissemination of information on decolonization⁵⁹
58. Entrepreneurship for sustainable development⁶⁰
59. Oil slick on Lebanese shores⁶¹
60. Role of the United Nations in promoting development in the context of globalization and interdependence⁶²
61. Towards a new international economic order⁶³
62. Combating sand storms⁶⁴
63. Eradicating rural poverty to implement the 2030 Agenda for Sustainable Development⁶⁵
64. Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources⁶⁶
65. Addressing and countering the world drug problem through a comprehensive, integrated and balanced approach⁶⁷
66. Moratorium on the use of the death penalty⁶⁸
67. Extrajudicial, summary or arbitrary executions⁶⁹
68. Promotion of peace as a vital requirement for the full enjoyment of all human rights by all⁷⁰

⁵⁶ U.N. G.A. Res. 77/123 (December 12, 2022)

⁵⁷ U.N. G.A. Res. 77/122 (December 12, 2022)

⁵⁸ U.N. G.A. Res. 77/149 (December 12, 2022)

⁵⁹ U.N. G.A. Res. 77/148 (December 12, 2022)

⁶⁰ U.N. G.A. Res. 77/160 (December 14, 2022)

⁶¹ U.N. G.A. Res. 77/157 (December 14, 2022)

⁶² U.N. G.A. Res. 77/175 (December 14, 2022)

⁶³ U.N. G.A. Res. 77/174 (December 14, 2022)

⁶⁴ U.N. G.A. Res. 77/171 (December 14, 2022)

⁶⁵ U.N. G.A. Res. 77/183 (December 14, 2022)

⁶⁶ U.N. G.A. Res. 77/187 (December 14, 2022)

⁶⁷ U.N. G.A. Res. 77/238 (December 15, 2022)

⁶⁸ U.N. G.A. Res. 77/222 (December 15, 2022)

⁶⁹ U.N. G.A. Res. 77/218 (December 15, 2022)

⁷⁰ U.N. G.A. Res. 77/216 (December 15, 2022)

69. Promotion of a democratic and equitable international order⁷¹
70. Human rights and unilateral coercive measures⁷²
71. The right to development⁷³
72. The right of the Palestinian people to self-determination⁷⁴
73. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination⁷⁵
74. A global call for concrete action for the elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action⁷⁶
75. Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance⁷⁷
76. Report of the Human Rights Council⁷⁸
77. Intensification of effort to prevent and eliminate all forms of violence against women and girls: gender stereotypes and negative social norms⁷⁹
78. International Day for the Prevention of Violent Extremism as and when Conducive to Terrorism⁸⁰
79. Further practical measures for the prevention of an arms race in outer space⁸¹
80. Oceans and Law of the Sea⁸²

The resolutions in which the Philippines was considered a “**Non-Voting Party**” are as follows:

1. The situation in Afghanistan⁸³

⁷¹ U.N. G.A. Res. 77/215 (December 15, 2022)

⁷² U.N. G.A. Res. 77/214 (December 15, 2022)

⁷³ U.N. G.A. Res. 77/212 (December 15, 2022)

⁷⁴ U.N. G.A. Res. 77/208 (December 15, 2022)

⁷⁵ U.N. G.A. Res. 77/206 (December 15, 2022)

⁷⁶ U.N. G.A. Res. 77/205, (December 15, 2022)

⁷⁷ U.N. G.A. Res. 77/204, (December 15, 2022)

⁷⁸ U.N. G.A. Res. 77/200, (December 15, 2022)

⁷⁹ U.N. G.A. Res. 77/193, (December 30, 2022)

⁸⁰ U.N. G.A. Res. 77/243, (December 20, 2022)

⁸¹ U.N. G.A. Res. 77/250, (December 20, 2022)

⁸² U.N. G.A. Res. 77/248, (December 30, 2022)

⁸³ U.N. G.A. Res. 77/10, (November 10, 2022)

2. Situation of human rights in the Islamic Republic of Iran⁸⁴

The resolutions in which the Philippines has **abstained** are as follows:

1. Cooperation between the United Nations and the Collective Security Treaty Organization⁸⁵
2. Promoting international cooperation on peaceful uses in the context of international security⁸⁶
3. Convention on the Prohibition of the Use of Nuclear Weapons⁸⁷
4. Situation of human rights in the Syrian Arab Republic⁸⁸
5. Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine⁸⁹
6. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem⁹⁰

⁸⁴ U.N. G.A. Res. 77/228, (December 15, 2022)

⁸⁵ U.N. G.A. Res. 77/13, (November 21, 2022)

⁸⁶ U.N. G.A. Res. 77/96, (December 7, 2022)

⁸⁷ U.N. G.A. Res. 77/82, (December 7, 2022)

⁸⁸ U.N. G.A. Res. 77/230, (December 15, 2022)

⁸⁹ U.N. G.A. Res. 77/229, (December 15, 2022)

⁹⁰ U.N. G.A. Res. 77/247, (December 30, 2022)