

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 4th Cycle, 41st Session
REPUBLIC OF THE PHILIPPINES

I. BACKGROUND INFORMATION

The Philippines acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (jointly referred to as the *1951 Convention*) in 1981, the *1954 Convention relating to the Status of Stateless Persons (1954 Convention)* in 2011. As of February 2022, the government has taken steps to deposit the instrument of accession to the *1961 Convention on the Reduction of Statelessness (1961 Convention)* by the end of 2022.

While the pandemic has affected the socioeconomic situation nationwide, the State continues to pursue its commitments under the Global Refugee Forum (GRF) and the High-Level Segment on Statelessness (HLS) along with the National Action Plan (NAP) to End Statelessness by 2024, the updated Philippine Development Plan (PDP) 2017 – 2022, the President's pronouncements in the UN General Assembly and the government's interventions during the 48th Regular Session of the Human Rights Council, the 72nd Session of the Executive Committee of the High Commissioner's Program, and the High-Level Officials Meeting through the inclusion of POC in social amelioration programs and the COVID-19 vaccination programme. It should be noted, however, that the upcoming elections and other socio-political developments can affect the plans and priorities of the next administration with regard to refugees, asylum seekers, stateless applicants, stateless persons and populations at risk of statelessness (*collectively known as persons of concern*).

The Philippines has a robust framework on refugee protection and statelessness which permits persons of concern to have access to courts, free legal assistance, and documentation, among others. It has established coordinative mechanisms¹ to ensure a favourable and protective environment for persons of concern and employs a functional refugee and stateless status determination procedure pursuant to the Department of Justice (DOJ) Circular No. 58, series of 2012. As of June 2021, it hosts 811 refugees, 542 asylum-seekers and 13 stateless persons,² of whom approximately 25% are female and 12.5% are children³.

As of December 2021, there are 128,492 persons at risk of statelessness composed of Sama Bajaus⁴ and Persons of Indonesian Descent (PIDs). Of the PIDs who remain at risk of statelessness, 55% are female while 22% are children. Through the efforts of the Philippine government, 1,442⁵ Sama Bajaus have been issued with birth certificates, while 132 PIDs have been provided with solutions⁶. Other State-identified populations at risk of statelessness, including unregistered children within the context of forced displacement due to armed conflict, children of Philippine descent in migratory settings, and foundlings, have

¹ These are the Inter-Agency Steering Committee on the Protection of Persons of Concern (IASC) and the 7 inter-agency Technical Working Groups (TWGs) under the Action Points of the National Action Plan to End Statelessness.

² Information is based on the registry on persons of concern (POC) of the Department of Justice as of end of June 2021 (subject to verification).

³ It should be noted, however, these figures take into consideration the fact that there are individuals whose sex and/or age are unknown.

⁴ UNHCR Philippines only reported these figures recently, after obtaining confirmation from the State that the 2010 national census could be used as a baseline figure for Sama Bajaus. UNHCR has not previously undertaken any mapping activity, by itself or jointly with the Government, for the population group. Initiated in 2019, UNHCR and UNICEF supports the Philippine government in the conduct of pilot birth registration for select Sama Bajau communities under the UNHCR - UNICEF Joint Strategy to End Statelessness.

⁵ Of the Sama Bajaus whose risk of statelessness has been addressed, 24.7% are children.

⁶ As of December 2021.

yet to be mapped. In addition, persons of Japanese descent have yet to be recognized by the State as a population at risk of statelessness despite the need to address their citizenship issues given that the average of the population is 81 years old⁷.

In the Philippines, the crisis of internal displacement is perennially impacting over a million people. In Mindanao alone, there are 65,500 families (approximately 266,000 persons) were displaced from 2013 to end of 2021, 36% of the total number are in a state of protracted displacement. The recurring and cyclical displacement in Mindanao brought about by armed conflict, clan feuds, generalized violence, and natural disasters has resulted in the increased protection risks and concerns of the local population. The passage of legislation for the protection of rights of IDPs would greatly contribute to the implementation of mechanism for the attainment of durable solutions for IDPs.

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Full implementation of the 1961 Convention and pursuit of facilitated naturalization procedures for stateless persons

Linked to 3rd cycle UPR recommendations nos. 133.256: Accede to and fully implement the 1961 Convention on the Reduction of Statelessness and ensure that all otherwise stateless persons in the country have access to a procedure that will facilitate the acquisition of a nationality (Slovakia); 133.1 Ratify all conventions to which the country is not yet a party (Gabon); 133.25 Ensure conformity of national legislation with the international legal instruments on human rights, in particular the Convention on the Elimination of All Forms of Discrimination against Women (Gabon); 133.26 Promote legislation conforming fully to the Convention on the Elimination of All Forms of Discrimination against Women (Japan);

UNHCR commends the Philippines for taking steps to deposit the instrument of accession to the *1961 Convention* by the end of 2022. In line with this, it further acknowledges that Congress has approved the Foundling Recognition and Protection Act to pursue the alignment of national legislation with Article 2 of the *1961 Convention*.

While refugees and stateless persons can apply for naturalization pursuant to Commonwealth Act (CA) 473⁸ or Republic Act (RA) 9139⁹, they face challenges due to rigid qualifications and disqualifications¹⁰ and lengthy and costly processes. Due to the age requirement, among other qualifications¹¹, unaccompanied children are unable to apply for naturalization despite their right to a nationality, leaving gaps which could lead to childhood statelessness. In addition, gender discrimination persists in naturalization laws as Section 15 of CA 473 stipulates the automatic conferment of citizenship from husband to wife while Section 12 of RA 9139 provides that married women applicants for naturalization are unable to confer their citizenship to their husbands. These run contrary to Article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Section 19(g) of RA 9710¹² and the fundamental equality of men and women before the law under the Section 14, Article II of the 1987 Philippine Constitution¹³.

⁷ Desk Review Report on Populations at Risk of Statelessness, available at: <https://www.refworld.org/docid/6103f4174.html>.

⁸ Commonwealth Act 473 (Revised Naturalization Law), available at: <https://pcw.gov.ph/commonwealth-act-no-473-revised-naturalization-law/>.

⁹ Republic Act 9139 (The Administrative Naturalization Law of 2000), available at: <https://www.officialgazette.gov.ph/2001/06/08/republic-no-9139/>.

¹⁰ Such as, but not limited to, the following requirements: (1) 10-year residency, (2) enrolment of minor children in schools which teach Philippine history, among others as part of its curriculum, (3) must not be suffering from mental alienation or incurable diseases.

¹¹ Such as having "lucrative trade, profession, or lawful occupation".

¹² Republic Act 9710 (Magna Carta of Women), available at: <https://www.officialgazette.gov.ph/2009/08/14/republic-act-no-9710/>.

¹³ The 1987 Constitution of the Republic of the Philippines, available at: <https://www.officialgazette.gov.ph/constitutions/1987-constitution/>.

To address this, the Philippines has taken steps to develop and propose gender-responsive amendments to naturalization laws. To expedite naturalization procedures and reduce costs, the bill on Facilitated Administrative Naturalization has been finalized and the Rule on Facilitated Judicial Naturalization has been approved by the Supreme Court.

If these endeavours come into fruition, they would be in line with the High-Level Segment on Statelessness pledges made by the Philippines¹⁴, the National Action Plan (NAP) to End Statelessness by 2024, Chapter 21 of the PDP 2017-2022 on enhancing the legal framework for stateless persons¹⁵, and Articles 34 and 32 of the *1951 Convention* and the *1954 Convention*, among other international human rights instruments.

Recommendations:

UNHCR recommends that the Government of Philippines:

- a) Operationalize the 1961 Convention by introducing safeguards to prevent statelessness;
- b) Enact the law on foundlings recognizing their presumed Philippine citizenship and ensuring their access to rights and services;
- c) Amend gender discriminatory provisions in naturalization laws so that women can confer citizenship to their spouses on an equal basis as men;
- d) File the proposed draft bill on Facilitated Administrative Naturalization and implement the Rule on Judicial Naturalization to reduce costs and to expedite and ensure the accessibility of naturalization procedures for refugees and stateless persons.

Issue 2: Ending statelessness

Linked to 3rd cycle UPR recommendation no. 133.257: Continue to do all that is necessary to end statelessness, especially for those living in areas that have experienced armed conflict before peace (Egypt).

UNHCR recognizes the steps undertaken by the Philippines to address statelessness through its NAP to End Statelessness by 2024. The Philippine Government is jointly working with the Indonesian Government to register and confirm the nationality of persons of Indonesian descent (PID). It is conducting advocacy sessions and birth registration initiatives for Sama Bajaus¹⁶. Local civil registrars (LCRs), supported by civil society organizations, conduct birth registration activities to reach geographically isolated and disadvantaged communities. It has issued guidelines for the registration of the Certificate of Live Birth for foundlings¹⁷, thereby operationalizing the 2016 Supreme Court rulings¹⁸ which recognizes foundlings as presumed natural-born citizens. The national human rights institutions (NHRIs) of the Philippines, Indonesia, and Malaysia signed a tripartite Memorandum of Understanding to pursue regional collaboration in addressing statelessness issues in Sabah. Initial steps are being undertaken to address the statelessness risk among persons of Japanese descent as recommended in the Desk Review Report on Populations at Risk of Statelessness¹⁹.

However, there are populations at risk of statelessness which have yet to be mapped, whose births have yet to be registered, and whose citizenship issues have yet to be resolved, including unregistered children within the context of displacement due to armed conflict.

¹⁴ High-Level Segment on Statelessness: Results and Highlights, available at: <https://www.refworld.org/docid/5ec3e91b4.html>.

¹⁵ Updated Philippine Development Plan 2017-2022 (as of 10 February 2021), available at: <https://pdp.neda.gov.ph/wp-content/uploads/2021/02/Prepublication-Updated-PDP-2017-2022-as-of-Feb-10.pdf>.

¹⁶ As of end of December 2021, 1,442 Sama Bajaus have been issued with birth certificates.

¹⁷ Guidelines in the Registration of the Certificate of Live Birth of Persons with No Known Parent/s, available at: <https://psa.gov.ph/sites/default/files/MC%202021-24%20on%20Guidelines%20in%20the%20Registration%20of%20the%20Certificate%20of%20Live%20Birth%20of%20Persons%20with%20No%20Known%20Parents.pdf>.

¹⁸ Grace Natividad S. Poe-Llamanzares v. COMELEC, Francisco S. Tatad, Antonio P. Contreras and Amado Valdez, [2016] G.R. No. 221697 and David v. Senate Electoral Tribunal and Mary Grace Natividad S. Poe-Llamanzares, [2016], G.R. No. 221538.

¹⁹ Desk Review Report on Populations at Risk of Statelessness, available at: <https://www.refworld.org/docid/6103f4174.html>.

Understanding the scope, complexities, and magnitude of statelessness will aid the Government in collaboration with other actors to tailor interventions to address any outstanding risks of statelessness.

Addressing these challenges would fulfil the State's pledges during the High-Level Segment on Statelessness²⁰ organized by UNHCR in October 2019, the NAP to End Statelessness by 2024, and its obligations under Articles 2, 3, 16, 24 and 26 of the *International Covenant on Civil and Political Rights*, Articles 3, 7 and 8 of the *Convention on the Right of the Child*, Article 18 of the *Convention on the Rights of Persons with Disabilities*, Articles 3 and 9 of the *CEDAW*, and Article 29 of the *Convention on the Rights of All Migrant Workers and Members of Their Families*.

Recommendations:

UNHCR recommends that the Government of Philippines:

- a) Fully implement the National Action Plan to End Statelessness by 2024;
- b) Enhance the legal and policy framework by ensuring safeguards to prevent statelessness;
- c) Continue to study and collect qualitative and quantitative data on the extent of statelessness in the country and implement measures to resolve existing cases of statelessness;
- d) Strengthen local birth and civil registration mechanisms to scale-up birth and civil registration, especially in geographically isolated and disadvantaged areas.

Additional Protection Challenges

Issue 3: Enhancement of the country's framework to ensure the protection and inclusion of refugees, asylum-seekers, stateless applicants, stateless persons and populations at risk of statelessness

While the Government is able to provide services through the Inter-Agency Steering Committee (IASC) on the Protection of Asylum Seekers, Refugees, and Stateless Persons wherein referral mechanisms with relevant service agencies have been established, services are extended to these persons of concern on an ad-hoc basis. Moreover, several key laws, such as the Universal Health Care Act and the Expanded Senior Citizens Act, restrict their applicability to Filipino nationals, thereby excluding persons of concern despite their protected status in the Philippines. This can be remedied through (1) the implementation of the recently issued Executive Order No. 163, series of 2022²¹ institutionalizing access to protection services for persons of concern, (2) the passage of a comprehensive law on refugees and stateless persons which is pending deliberation in Congress, (3) the adoption of more inclusive and non-discriminatory language in programs and policies, and (4) the inclusion of these populations in national development frameworks. The passage of such Bill, the use of more inclusive language in policy, and their inclusion in relevant plans, can also help in ensuring a holistic protection by engaging the entire of system of Government in mainstreaming refugee and statelessness protection.

While there are different frameworks in the Philippines that provide for certain rights of persons of concern, these efforts will further strengthen the role of relevant agencies in providing protection to these populations. It would contribute to the fulfilment of relevant pledges made by the Government of Philippines, the NAP to End Statelessness by 2024, and Chapters 11 and 21 of the updated PDP 2017-2022²².

²⁰ High-Level Segment on Statelessness: Results and Highlights, available at: <https://www.refworld.org/docid/5ec3e91b4.html>.

²¹ Executive Order No. 163 series of 2022 - Institutionalizing Access to Protection Services for Refugees, Stateless Persons, and Asylum Seekers, available at: <https://www.officialgazette.gov.ph/downloads/2022/02feb/20220228-EO-163-RRD.pdf>.

²² Apart from enhancement of legal framework, the updated Philippine Development Plan also includes the institutionalization of protection services for POC as one of its targets. Updated Philippine Development Plan 2017-2022 (as of 10 February 2021), available at: <https://pdp.neda.gov.ph/wp-content/uploads/2021/02/Prepublication-Updated-PDP-2017-2022-as-of-Feb-10.pdf>.

Recommendations:

UNHCR recommends that the Government of Philippines:

- a) Ensure the inclusion of persons of concern in the next national development plan and other relevant plans, policies, and programmes;
- b) Use more inclusive and non-discriminatory language in policies and programs, ensuring their benefits are extended to displaced and stateless persons;
- c) Implement Executive Order No. 163 to ensure access of persons of concern to protection services;
- d) Enact the Comprehensive Refugees and Stateless Persons Protection Bill, to ensure displaced and stateless persons can fully enjoy their human rights.

Issue 4: Increased protection of internally displaced persons (IDPs) through legislation and policy

The Philippines faces a high risk of displacement due to disasters caused by natural hazards, armed conflict and sporadic crime and violence in specific areas. In Mindanao, forced displacement continues to occur due to armed conflict, clan feuds, crime, and natural disasters. For the year 2021, UNHCR has recorded 64,000 families displaced in Mindanao. The most vulnerable – the elderly, children, pregnant or lactating women, and female or elderly heads of households - continue to bear the brunt of the impact of displacement. Recurrent displacement in parts of Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) due to continued conflict between the government security forces and the non-state armed groups, as well as protracted displacement due to conflict in Zamboanga in 2013 and Marawi in 2017, and earthquake in 2019 in North Cotabato and Davao del Sur provinces, continue to be one of the stumbling blocks in providing long term solutions for the development of the affected communities. Assistance to those protractedly displaced gradually diminishes as attention is shifted to other humanitarian emergencies, leaving IDPs more vulnerable than ever. Further, in December 2021, several regions were hit by a Super Typhoon Rai affecting approximately 1.5 million individuals from the most affected communities in Caraga Region, many of whom had also been affected by a typhoon in February 2021.

Displacement in the Philippines is largely addressed through a disaster response framework, based on the Philippine Disaster Risk Reduction and Management Act (RA 10121). The law has made great strides in enhancing capacities of local governments and agencies for a more coordinated effort in disaster response, management and prevention/mitigation, proving to be instrumental in providing emergency support. A legislative and policy framework protecting IDPs would complement existing laws on disaster response but at the same time squarely address concerns that are specific to displacement such as protection and durable solutions using a rights-based approach. Further, criminalization of arbitrary displacement will further provide additional safeguards in consonance with the existing domestic legislation pertaining to international humanitarian law.

In the absence of a rights-based national legislation addressing internal displacement, administrative and executive policies must ensure that human rights of IDPs are protected and fulfilled, especially their right to participation in decision-making on matters that affect them. In the case of IDPs displaced from Marawi in 2017, lack of consultations among IDPs has led to assistance that is not geared towards the particular needs of families (either in amount, number, duration, or type of assistance). Further, the extended period within which the government is undertaking rehabilitation and construction work in the most affected areas is taking a toll on the displaced families, especially those who are living in transitory shelters or are being hosted by families.

Housing, Land and Property Issues:

The report²³ of the BARMM Special Committee on Marawi highlighted housing, land and property issues as crucial to solutions. Even before the siege²⁴, land ownership and possession in the area was fraught with claims, encroachment, and reliance on traditional / non-formal institutions of ownership and possession. In the rehabilitation efforts, there are concerns of IDPs regarding the conduct of debris cleaning and demolition without consent of the homeowners, especially when the demolition was done without regard for leaving visible markers or physical boundaries between properties. The process of return is also fraught with administrative requirements, some of which are out of reach of the ordinary Marawi IDP due to inconsistent income. Meanwhile, compensation for damaged properties inside the most affected area of Marawi City is the subject of a bill pending before the Philippine legislature since 2017.

Furthermore, the Super Typhoon Rai that hit the Southern Philippines has caused severe and widespread damage to houses and properties of the affected population. Displaced families currently staying in evacuation centers have learned from local authorities that they will not be allowed to return to their residences following the implementation of the No-Build Zone (NBZ) policy by the Government's Department of Environment and Natural Resources (DENR) and in some areas by the local government units. This had prevented residents from rebuilding housing structures in areas considered as high risk. According to reports, some local government units have already started the strict implementation of the said policy. The imposition of such policy, without due process provided by existing laws, may constitute forced eviction where restrictions or accompanying relocations render individuals with no choice but to leave their lands or properties.

While there is the existence of law on the NBZ, it is important that the affected population is guaranteed of their right to due process prior to its implementation. A rights-based approach has to be adopted in all interventions to achieve durable solutions. Adherence to the international instruments and the 1987 Constitution²⁵ must be taken into consideration.

Recommendations

UNHCR recommends that the Government of Philippines:

- a) Pass a law on the protection of rights of internally displaced persons at the national level and in the Bangsamoro Autonomous Region in Muslim Mindanao;
- b) Develop a durable solutions strategy to address the protracted cases of displacement in the country, especially those who remain displaced due to the Zamboanga conflict in 2013 and the Marawi siege in 2017;
- c) Address housing, land and property issues in Marawi and in areas heavily impacted by Typhoon Rai and expedite rehabilitation to encourage voluntary return and durable solutions, ensuring full participation of internally displaced persons in decision-making;
- d) Strengthen displacement tracking, monitoring, and reporting system both in the Bangsamoro Autonomous Region in Muslim Mindanao (e.g. IDP Profiling and Response Tracking or iPART) and other areas (e.g. DROMIC Reporting System) to better provide solid evidence as basis for humanitarian and development responses and for programming and policy decision making;
- e) Through the whole-of-society approach, ensure local governments integrate the protection of and durable solutions for internally displaced persons in their regular programming interventions, especially for those who have been repeatedly displaced;

²³ Report of the BARMM Special Committee on Marawi, available at: <https://www.mindanews.com/documents/2020/08/report-of-the-bangsamoros-special-committee-on-marawi/>

²⁴ In 2017, the extremist alliance swore allegiance to ISIS, and, on May 23 of that year, launched a takeover of Marawi, in a siege that took government troops by surprise. The Philippine military waged ground assaults and airstrikes to defeat them, in fighting that dragged on for five months.

²⁵ Article XIII, Section 10 of the 1987 Philippine Constitution:

SECTION 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.

No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.



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- f) Embed protection components on internally displaced persons into the capacity building and development programmes of agencies with social protection function;
- g) Localize the formation of Protection Working Groups down to the barangay local government units to address protection issues of the displaced population and host communities.

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