



Republika ng Pilipinas
Komisyon ng Karapatang Pantao ng Pilipinas
(Commission on Human Rights of the Philippines)

HUMAN RIGHTS and MILITARY OPERATIONS
An Advisory from the Commission on Human Rights

CHR A2008-002

The fight against terrorism, insurgency and rebellion in the country has been extensive, difficult and tedious. The Commission on Human Rights is cognizant of the fact that the Armed Forces has been all too diligent in serving its duty as *protector of the people and the State*.¹

Recent reports, however, showed various human rights violations and abuses committed during military operations. The reported displacement and wounding of civilians in the ongoing military operations in Sulu constrains the Commission to issue this advisory.

Violations of the right to life, liberty and security of persons, right against arbitrary deprivation of property and internal displacement are among the sacrificed human rights of those who find themselves trapped in crossfire. All too often, children, women, elderly, indigenous peoples and other disadvantaged sectors of society are the first to suffer the effects of military operations. Armed conflict denies access to land and livelihood, deprives shelter and security and shatters the right to live in peace and development.

Military operations, whether as part of regular or contingency measures, must at all times observe the principles of human rights provided for under international human rights instruments and national legislation.

The Universal Declaration on Human Rights,² the International Covenant on Civil and Political Rights³ and International Humanitarian Law ensures, among others, the right to life, liberty, security and property, of every person whether in times of peace or conflict. Specifically, Protocol II⁴ to the Geneva Conventions, United Nations Guiding Principles on Internal Displacement⁵ and ILO Convention No. 169⁶ provide guidelines for the better promotion and protection of human rights.

Applicable to conflicts *not* of an international character between the armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations, the Second Protocol to the Geneva Convention, under the Common Article 3, guarantees the

¹ Section 3, Article II, 1987 Philippine Constitution

² or *UDHR*, ratified by the Philippines on December 10, 1948

³ or *ICCPR*, signed by the Philippines on December 19, 1966 and ratified on January 28, 1986

⁴ approved on August 12, 1949 but ratified by the Philippines in 1952

⁵ or *UNGPID*

⁶ entered into force on September 5, 1991, however, the Philippine government has yet to ratify the instrument

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protection of persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely without any adverse distinction founded on race, colour, religion or faith, sex, birth, wealth, or any other similar criteria.⁷

To this end, violence against life and person – in particular, murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples – are ultimately prohibited.⁸

Attacks against children and civilian population are absolutely prohibited. So are attacks against objects indispensable to the survival of the civilian population, works and installations containing dangerous forces, and cultural objects and places of worship.

The United Nations Guiding Principles on Internal Displacement (UNGPID), on the other hand, provides for protection and promotion of human rights before, during and after internal displacement. As defined, internal displacement is the voluntary and arbitrary or coerced movement or relocation of persons, families, or communities from their areas of habitual abode and source of subsistence within the national borders as a result of natural or human-made disasters including internal armed conflicts. More importantly, displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Finally, ILO Convention No. 169 provides for the special protection of our indigenous peoples who are at risk from the military activities done in the mountains where they are found.

At the national level, the Constitution provides, "*The State values the dignity of every human person and guarantees full respect for human rights.*"⁹

Pertinent provisions of Republic Act No. 7610,¹⁰ specifically on Children In Situations of Armed Conflict¹¹ and its corresponding Rules and Regulations,¹² considered children as "zones of peace"¹³ and afforded them such protection as is appropriate to their vulnerability especially during military operations. Republic Act 8371¹⁴ or the IPRA Law also provides special protection to our indigenous peoples especially against internal displacement and other human rights violations.

Recommendations

Again, the Commission is one with the government and its people in the fight against terrorism, insurgency and rebellion in the country. However, we

⁷ Article 3 of Protocol II which is a common article found in all four Geneva Conventions

⁸ Ibid.

⁹ Section 11, Article 2, 1987 Philippine Constitution

¹⁰ "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" approved on June 17, 1992

¹¹ Article X, Ibid.

¹² Rules and Regulations on Children In Situations of Armed Conflict promulgated on January 21, 1994

¹³ Section 22, RA 7610

¹⁴ "The Indigenous Peoples Rights Act" enacted on October 29, 1997

maintain that in the course of military operations, necessary precautions and measures must be done and be taken into consideration in order that the paramount interest of human rights will not be sacrificed. In this connection, we put forth the following preliminary recommendations on the conduct of military operations:

For the Armed Forces to:

1. strictly observe and adhere to the principles and standards as provided under international human rights treaties, International Humanitarian Law and relevant domestic laws;
2. review its military operations and procedures accordingly in order to ensure maximum protection and promotion of human rights in the field;
3. closely coordinate with the Department of Social Welfare and Development (DSWD), the National Disaster Coordinating Council (NDCC) and this Commission prior to any military operation in order to prevent and lessen the impact of violence such as internal displacement;
4. resolutely monitor and investigate allegations of human rights violations during military operations in order to bring justice to human rights victims;

For the Legislature to:

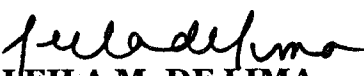
1. immediately pass the bills on internal displacement in order to address, once and for all, the issues of forced evacuation especially caused by armed conflicts;
2. to pass a law providing compensation to victims of crossfire to institutionalize financial assistance to victims of human rights abuses and violations during military operations;

For the Government to:

1. sign and ratify ILO Convention 169 for the greater protection of our indigenous peoples; and
2. continue to pursue durable and long-lasting solutions to the conflict with the aim of attaining just, sustainable and comprehensive peace and development.

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For the Commission:


ATTY. HEILA M. DE LIMA
Chairperson 