



HOW DO YOU SOLVE A PROBLEM LIKE THE GPH-NDFP PEACE PROCESS?

PARADIGM SHIFTS FOR 2016 AND BEYOND

SOLIMAN M. SANTOS, JR.

Author

Soliman M. Santos, Jr.

Copy Editor

Nerea Bilbatúa

Photographs

OPPAP (page 85)

Karlos Manlupig (pages 4 and 14)

Layout Artist

Boonruang Song-ngarm

Publisher

The Centre for Peace and Conflict Studies, 2016

**HOW DO YOU SOLVE A PROBLEM LIKE
THE GPH-NDFP PEACE PROCESS?
PARADIGM SHIFTS FOR 2016
AND BEYOND**

SOLIMAN M. SANTOS, JR.

**The Centre for Peace and Conflict Studies
Siem Reap, Cambodia
May 2016**

How do you end a protracted, seemingly intractable, conflict that has lasted for more than 40 years? And how do you do it in a context of exhaustion and disillusion? This collection of articles by Judge Sol Santos, presents a thoughtful analysis of the peace process between the Government of the Philippines and the CPP-NPA-NDFP over the last decade. They propose alternative solutions to on-going challenges whilst highlighting the role of civil society and affected communities. At the core of Judge Sol's writing stand those directly affected by the conflict: those holding arms at both sides of the divide, those caught in the midst of it: the internally displaced, the wounded, the dead ones, their families, friends and comrades. As this book shows: "A peace process is easier promised than done". However, there is a moral obligation to continue pushing for a negotiated solution. These articles call for a change of attitude among those involved in the negotiation. The time is now.

SOLIMAN M. SANTOS, JR. (SOL) has been a long-time Filipino human rights and international humanitarian lawyer, legislative consultant and legal scholar. Peace advocate and researcher he has been widely published. He is the author of numerous books, including *The Moro Islamic challenge: Constitutional rethinking for the Mindanao peace process* (2001), *Peace advocate: 50 selected writings, 1986-1997* (2002), and *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines* (2010) co-authored with his wife Paz Verdades M Santos. His initial engagement with the peace process was in his home region of Bicol with the first GPH-NDFP nationwide ceasefire in 1986. He is presently Judge of the Regional Trial Court (RTC) Branch 61 in Naga City, Camarines Sur, Philippines.

TABLE OF CONTENTS

INTRODUCTION: HOW DO YOU SOLVE A PROBLEM LIKE THE GPH-NDFP PEACE PROCESS? (March 29, 2016).....	5
CEASEFIRE FOR THE 2010 CHRISTMAS SEASON (AND BEYOND)? (December 16, 2010).....	15
PEACE AGREEMENT IN 18 MONTHS (BY JUNE 2013) WITH INTERIM CEASEFIRE, OR ELSE (December 5, 2011)	21
JUST DROP THE CHARADE OF PEACE TALKS, FOCUS ON THE DOABLE (ESPECIALLY FOR HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW) (October 8, 2012).....	27
TERMINATED PEACE TALKS, INTENSIFIED ARMED CONFLICT: WHAT IS TO BE DONE? (May 27, 2013)	41
THE LAW ON THE USE OF LANDMINES AND THE CASE OF THE NPA (June 10, 2013)	55
OF FALLEN REBELS AND SOLDIERS: ONE TOO MANY, MUST THIS GO ON? (July 22, 2013).....	69
JUDGING THE PROSPECTS FOR PEACE TALKS WITH THE NDFP IN 2015 (January 21, 2015)	79
TIMELINE OF THE GPH-CPP/NDFP/NPA PEACE PROCESS.....	86
THE HAGUE JOINT DECLARATION (September 1, 1992)	89
AND AFTER 20 YEARS, STILL	91



INTRODUCTION:
HOW DO YOU SOLVE A PROBLEM LIKE THE GPH-NDFP
PEACE PROCESS?

Naga City, March 29, 2016

Today, on the 47th Anniversary of the Communist Party of the Philippines-led New People's Army, and after six Philippine Presidents, another administration, that of President Benigno S. Aquino III, is due to end its term. And with this end the promise of a successful conclusion of the peace process between the Government of the Philippines (GPH) and the likewise CPP-led National Democratic Front of the Philippines (which started 30 years ago, in 1986 during the aftermath of the EDSA Revolution's ouster of the Marcos dictatorship) will continue to remain unfulfilled. This should forewarn the five presidential candidates campaigning towards the May 9, 2016 national elections, and to, whoever among them, is elected and assume office: a peace process is easier promised than done.

Can it be any different this time around with the coming seventh President facing this communist rebellion, or insurgency, of nearly half a century, which is precisely what the now similarly protracted peace process is supposed to resolve?

If it is not yet clear enough by now, the new President should be (made) aware that we are dealing here with, perhaps, the most intractable insurgency, or at least the most intractable peace process, in the world today. The question that concerns us here is not how do you solve a problem like the NPA (as asked in the sense of counter-insurgency). That is for military strategists to deal with. But rather, the question that concerns us is: how do you solve a problem like the GPH-NDFP peace process (as asked in the sense of conflict resolution and peace-building)?

This collection of peace advocacy articles and papers covering from 2010 to 2015 provide a fair sense of the difficulties and obstacles faced even in just resuming the long suspended peace talks, specially under the outgoing Aquino administration, during which six full years were not enough to move forward. As experience has shown, the expected, and understandable, enthusiasm of a new administration to talk peace with the country's major rebel groups will not be enough. Political will has to be matched by viable ways forward that, in turn, will build confidence between the parties and the body politic whose support for the process and outcome is essential.

These papers might be only “the voice of one” peace advocate, but I hope they show the value of a consistent effort of analysing this conflict, and its peace process over the years, and, most importantly, a consistent effort to think through specific constructive suggestions of what is to be done, given its problematic course.

It is no longer enough for concerned citizens and groups to make general calls to the resumption of peace talks to address the roots of the armed conflict, even as more voices are still needed for such general calls. But the devil is in the details, as it were; and in each side’s orientation and attitude in these matters.

To be sure, the papers collected in this publication, with their specific proposals, as well as other similar independent proposals for moving forward, were brought to the attention of both sides. But such proposals were basically met by both sides with what one paper here describes as *dedma* (feigned non-notice), indicating a certain degree of irresponsibility, unresponsiveness, and even arrogance in these matters, as if to say they know what they are doing and how to go about this problematic process, and do not need any unsolicited advice on it.

This kind of attitude has to change if there is to be any forward movement in this process, which has not been going anywhere for a good number of years already.

Although these collected papers were written for the GPH-NDFP peace process under the Aquino administration, some of the insights, as well as some of the specific recommendations found therein may be still of use under a new presidential administration.

The most important insightful recommendation is the need for a paradigm shift on both sides. Without it the peace talks will continue to be just a charade, and therefore, it would be more honest to drop them, rather than to continue going around in circles, while just fooling ourselves and our people, and wasting precious time, energy and resources on an exercise in futility.

Another resumption of the peace talks under a new administration without the necessary paradigm shift will only mean the same *pareho* (the “same same”) of protracted peace talks going nowhere other than the usual belligerent bickering (shrill public exchanges of accusations like fighting children) and

stalemates on what are really side issues, of molehills made into mountains. Short of a honest-to-goodness paradigm-shifted peace process, some of the papers herein also suggest what is to be done when there are no such peace talks at hand.

Early in this new year of 2016, the nominal GPH peace panel Chair Usec. Alexander Padilla issued a statement saying that: “Unless a new paradigm is extracted from the CPP/NPA, talks with the NDF will result in the same failed status, as was the case in the 30-year duration of negotiations”. He did not elaborate about what that new paradigm should be, and how it should be “extracted”, but he quoted (or misquoted) a CPP statement in Ang Bayan, its official publication, stating that: “the peace negotiations should be utilized for communist propaganda, and in order to overthrow government through armed struggle”. This actually sounds like a paraphrase rather than an exact quote, but it nevertheless, gets the essence of the CPP orientation: “that the general line of the new democratic revolution is the same general line for a just and lasting peace”. A key component of that reaffirmed general line is the Maoist Protracted People’s War (PPW) strategy, with its primacy of armed struggle. It is hard to see how this can be the same general line for peace negotiations, but that is it for the NDFP to decide.

Today’s 47th NPA Anniversary Statement by the CPP Central Committee plainly shows that a paradigm shift for the peace process on the part of the CPP-NPA-NDFP is not on the horizon. The Statement, perhaps expectedly for the NPA, hardly deals with the peace negotiations. It basically posits that: “the rapidly worsening crisis will press whichever is the new regime to consider the peace negotiations as a way to cope with the crisis and the upsurge of armed revolution throughout the archipelago”. The Statement emphasizes the NPA’s “Fighting Tasks” as its “main task is to fight and defeat the enemy”, even specifying six “weak points of the enemy [which] must be subjected to offensive operations”, and a mode of “combat with short rest periods” (just like the usual short-time or quickie ceasefires, if ever).

The “general line for a just and lasting peace”, which is the same as “the general line of the new democratic revolution”, is basically a line for peace through war or military victory; but this can work both ways, as has happened with the military defeat of the Tamil Tigers by the Sri Lankan government. Adhering closely to a key teaching of the Vietnamese revolution’s war and peace model, the CPP-NPA-NDFP very consciously posits that: “The struggle across the negotiating table reflects first of all the struggle in the battlefield,

and then influences further developments in the battlefield”. The NDFP’s front-loading of its demand for the release of its detained “consultants” for the peace negotiations before the latter can resume is, precisely, along that line of what may support the struggle in the battlefield, especially when the track record shows that many of previously released “consultants” return to their revolutionary work in the field, rather than as honest-to-goodness consultants for peace negotiations. Several pieces in this collection offer possible solutions to this side issue which GPH peace panel chair Padilla calls: “the main insurmountable issue”.

There are more aspects of Padilla’s January statement that deserve noting and commenting, including his position according to which it is the CPP, and not the NDFP, the right party to talk to. The basis for this position is his erroneous assertion that: “The NDF (...) a political coalition of various revolutionary groups (...) does not include the CPP and the NPA”. It does and, in fact, it is for all intents and purposes led by the CPP. The NDFP Constitution recognizes: “The class leadership of the proletariat through the CPP”, and that: “The NPA is under the absolute leadership of the CPP”, with both the CPP and NPA on top of the list of at least 16 “Revolutionary Allied Organizations in the NDFP” submitted to the Swiss Federal Council and the International Committee of the Red Cross (ICRC). All 16 NDFP allied organizations are led by the CPP. Talking to the NDFP in peace negotiations is, in effect, talking to the CPP and to the other 15 NDFP allied organizations. It is the NDFP peace panel that has long been clearly given the mandate to engage in peace negotiations on behalf of the whole NDFP and, for that matter, on behalf of the CPP (although still subjected to the latter’s overall leadership and general line for the peace negotiations). The GPH apparently perceives that the in-country CPP leadership has occasionally countermanded certain initiatives of the Utrecht-based NDFP peace panel and, so, the GPH has some reason to raise the question of the right party to talk to. But as long as the CPP leadership reaffirms its mandate for the NDFP peace panel, then the GPH will just have to respect that (just as the NDFP must also respect whosoever the GPH leadership mandates for its peace panel like Padilla).

The real concern with the GPH position (that it is not the NDFP but the CPP the right party to talk to) is related to a second aspect of Padilla’s January statement. We refer to Padilla’s reference to: “A long and painful road to peace marred by an immovable framework under *The Hague Joint Declaration (...)*”. *The Hague Joint Declaration* is not “an immovable framework”; rather it is the NDFP’s Maoist PPW framework for the peace negotiations the one that has largely been immovable, to the stalemate detriment of these belligerent

negotiations (with some blame also on the GPH for their lack of progress and even retrogression). The latter is indicated by the unfortunate move by the GPH, at least under the Aquino administration, to junk *The Hague Joint Declaration* framework agreement of 1992 and two other subsequent key agreements, the 1995 *Joint Agreement on Safety and Immunity Guarantees* (JASIG) and the 1998 *Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law* (CARHRIHL).

These hard earned agreements are good enough; of course they can be improved as well as built on, but certainly not junked. The GPH wants them junked because of its view, which has factual basis, that the CPP-NPA-NDFP has made use of these agreements, including their ambiguities, to serve its primary PPW strategy through its only tactical engagement in the peace negotiations, which is of only tertiary importance to them. But the fault lays not so much in these agreements as it does in the parties' respective frameworks for the negotiations. It would appear that the GPH, more precisely the Aquino administration, is laying the ground for the junking of these agreements on the afterthought basis that these were agreements with the NDFP, which is not "the right party to talk to in the first place" (the right party being the CPP). But we have already debunked this line of argument.

A third aspect of Padilla's January statement is its conspicuous omission of any reference to the substantive agenda, alongside its emphasis on: "A limited agenda, to reach agreement with the NDF to reduce of the level of armed violence on the ground", also as a measure: "To restore the public's trust in the peace process". This limited agenda was of course proposed in the context of what might be still "realistically" possible "with the short runway left to the Aquino administration". And it does address a certainly legitimate and felt need of the people in conflict-affected communities for some respite from the crossfire in order to better get on with their daily struggles of living. Padilla speaks of: "De-escalation of armed violence through concrete, verifiable, unilateral goodwill measures, undertaken by both the Philippine government and the NDF for the good of the people, and in order to rebuild public trust in the peace process". That is all well and good. But we should not forget also the need for progress on the long overdue substantive agenda of agreeing on, likewise, "concrete, verifiable" social, economic and political reforms aimed at addressing the roots of the armed conflict.

Previously, the Presidential Adviser on the Peace Process, Secretary Teresita Quintos-Deles had been several times reported saying that: "The government

had been searching for ways to restart the peace negotiations with the communist rebels on the basis of a time-bound and doable agenda". However, she has never spelled out that agenda, at least what the GPH proposes, if any. The NDFP has for its part at least proposed several "concise agreements" and "general declarations of mutual intent", all broadcasting in "paraphrase" form the CPP's Program for a People's Democratic Revolution, circa 1968 CPP founding congress. But the mantra of "addressing the roots of the armed conflict" should not translate to a never-ending quest in the peace negotiations. Not all those roots can be fully addressed in the negotiations; some of such addressing, or some necessary reforms, will have to be left to the dynamics of other political and democratic processes with the people's meaningful participation in the policy decisions that affect their destiny, which other political and democratic processes can also be agreed upon.

Sometime back, it was reported in the news that presidential candidate Davao City Mayor Rodrigo Duterte had asked his former U.P. professor, and CPP founder-leader, Jose Maria Sison to abandon the armed struggle and join the democratic process to fight for the change the communists had been pushing for: "Armed struggle as a means to achieve change is passé in the modern world we are living in today" Duterte said, adding that: "More than 40 years of armed struggle, and thousands of lives lost is too much to bear".

Is it not a viable alternative for the revolutionary movement to, strategically, and transformational "join [and reform] the democratic process instead" on the basis of the movement's faith in the masses and in the merits of the national-democratic program? Are the masses, who make history, not bound to sooner or later support that program, which presumably represents their best interests, if that program and its standard-bearers are offered as a choice in a viable democratic political process that does not involve a costly resort to arms?

In the NPA Anniversary Statement today, there appears to be a small window for a violence-reducing ceasefire "while comprehensive agreements on basic social, economic and political reforms are still being worked out" through the peace negotiations. Witness this particular statement: "Without these comprehensive agreements, the Filipino people requires the NPA to stay fully armed, ever vigilant and ready to fight (...)". Mere readiness to fight normally connotes not actually fighting in the interim for such readiness. But this remains to be seen or even agreed upon. One difficulty here is the NPA's long-ingrained mode whereby actually fighting is its formula for readiness to

fight. But the necessity of actually fighting in order to have readiness to fight was disproved recently by the NDFP's "formal and working ally", Moro Islamic Liberation Front (MILF), in its lethally effective defensive counter-action at the Mamasapano Incident, despite its being in a prolonged general ceasefire since 1997, or nearly two decades.

In any case, both the NDFP and the GPH know, as they ought to, that what is attainable across the negotiating table, simply cannot be the same as what is attainable in the battlefield, despite some co-relation between the two arenas. What is attainable through peace negotiations is usually lower (in terms of substantive agenda or political objectives) than what is attainable through a military victory. Each side has to make a judgment call, a strategic decision, on whether to go for a peace strategy or war strategy. The ideal, the best-case scenario, is when both sides concur in going for a peace strategy, as it was clearly the case of the MILF and the GPH. As experience has shown, conducting peace negotiations as part of a war strategy, as also it is clearly the case of the NDFP and the GPH, is inherently problematic. The strategic decision of one side to go for either a peace strategy or war strategy depends partly, if not largely, on the other side's disposition. The GPH has shown that it can, as shown in the process with the MILF, go for a peace strategy. And so, the burden falls greatly on the NDFP to show that it too can go for a peace strategy.

To be sure, there are a number of factors and considerations, other than the GPH's disposition, for the CPP-NPA-NDFP to make a paradigm shift from a war strategy to a strategic decision to go for a peace strategy. Perhaps foremost among those factors and considerations are questions about the effectiveness of its adopted Maoist PPW strategy. Today's 47th NPA Anniversary Statement itself candidly speaks of: "Non-fulfilment of long-set objectives for advancing the people's war in the direction of the strategic stalemate (...) where stagnation and decline of the forces and forms of struggle occur". The CPP-NPA-NDFP should also morally consider the costs, especially in terms of lives lost, due to this fratricidal war that has been going on for five decades. A couple of the articles in this collection highlight some of those fallen rebels and soldiers by names and stories beyond the cold casualty statistics. Their lives matter, shouldn't they?

There should also be "summings-up and evaluations at the national, regional, sub-regional and front levels" of the 47-year cost-effectiveness of the PPW strategy itself, as well as an honest assessment of the current GPH-NDFP politico-military balance and prospects ("on the basis of existing strength

and capability”) in the context of objective and subjective conditions at the national and international levels. Other country’s experiences, most notably and relevantly in the current Colombian peace process with now the two major Marxist-Leninist rebel groups, may prove instructive to us, if we can draw the right lessons. The CPP-NPA-NDFP may take a similar shining path, or it may persist in its proclaimed role as the Maoist international vanguard: “In the forefront of the anti-imperialist and democratic struggle (...) waging just revolutionary struggle for national and social liberation (...) especially in its resilience and self-reliance in waging people’s war”. In the end, which is the better legacy that they (particularly its passing first generation of leaders) can leave for the people?

Ultimately, for any Philippine revolutionary or social movement, more important than the favourable opinion and support of organizations and peoples from other countries is the favourable opinion and support of organizations and people in the Philippines. And so there is also the factor and consideration of the people’s pulse and what resonates with them. Honestly, is it their collective sense in the foreseeable future that “the armed revolution is the only way” to solve the basic problems of the Filipino people, and even to advance a national-democratic platform of government? The palpable waning of public interest over the years in the GPH-NDFP peace negotiations (in stark contrast to public interest in the Mindanao peace process) is a warning signal, not only for that peace process, but also for the NDFP itself and the national-democratic cause.

The interest of the general public on the GPH-NDFP front of war and peace may have waned in the National Capital Region and in the big regional cities, but it is still high in the local communities in conflict-affected areas of the countryside, where this interest is a matter of life and death, as highlighted in recent months by the spate of *Lumad* (Mindanao indigenous peoples) killings. It behoves all concerned, and especially civil society peace advocates, to seek new approaches for the resolution, of this conflict. For one, it is already past due for a more community-based strategic approach to the stagnated main GPH-NDFP peace process, instead of making it dependent on the panel-to-panel negotiations. One keyword here, aside from “community-based” is “strategic”. The local community-based approach in the peace process should be seen as central, and not just additional or augmentative, to the panel-to-panel negotiations.

The local community-based peace processes in such an approach, as shown in the community-based work of the independent civil society network *Sulong CARHRIHL* (Advance CARHRIHL) and in the case of the unfortunately marginalized “small” peace process with the CPP-breakaway *Rebolusyonaryong Partidong Manggagawang Mindanao* (RPMM, Revolutionary Workers Party of Mindanao), would already have a value itself whether or not the top-level peace negotiations move. But, of course, it would be better if these would move, and if, in doing so, they could strengthen the links with the “embedded feedback mechanisms” that “bring voices from the ground” to the peace talks. One problem with the long-stalled GPH-NDFP peace negotiations is that these are high level and not reflective of the local situations and concerns. There is a big gap between the top and bottom, and thus no solid foundation for the top-level talks. Overall, local communities, even in conflict-affected areas, are alienated from those talks, as it is, already more off than on. Local-level work can help the top-level talks by linking the local issues to the national issues, as these are really not isolated from each other. A critical mass of local community-based peace constituencies, in other words, a local mass base for peace, should be able also to help push the talks to move, along, of course, other favourable national and international factors.

All said, there is much strategic thinking and work to be done if the GPH-NDFP peace negotiations are to resume on the right footing under a new presidential administration. The temptation of a quick resumption of the negotiations without a viable framework and plan must be tempered. If ever, let the sincerity waters be tested first (and for that matter some confidence be rebuilt first), such as on whether any appreciable progress can be made on certain life and death matters like abating the *Lumad* killings, and effecting better respect for human rights and International Humanitarian Law, even as the fighting goes on. However, based on long experience, we should not hold our breath on this. Because there is also much strategic thinking and work that has to be done where there is no resumption of peace talks or where they get suspended again shortly thereafter. This is waging peace “with short rest periods”.



CEASEFIRE FOR THE 2010 CHRISTMAS SEASON (AND BEYOND)?

Naga City, December 16, 2010

The recent Hong Kong agreements between the Government of the Philippines (GPH) and the National Democratic Front of the Philippines (NDFP) for a Christmas season ceasefire and for the resumption of peace talks have been strongly welcomed in the country. The Christmas season ceasefire of 19 days (from December 16, 2010, the traditional beginning of *Simbang Gabi*, or of *Misa de Gallo* to January 3, 2011) has been hailed as the longest in the past 10 years¹, since usually we have only seen negligible “short-time,” “quickie” or “kuripot” four-day ceasefires on 24-25 December and 31 December-1 January.

Not much of a respite.

The ensuing talk has moved on to the release of political prisoners, such as the “Morong 43,” as part of the continuing: “Specific measures of goodwill and confidence-building to create a favourable climate for peace negotiations”, to quote The Hague Joint Declaration of 1 September 1992, which is the standing framework document for the GPH-NDFP peace talks. A call for the release of all political prisoners: “From both the left and the right” has, somehow, been co-related too with the earlier underway amnesty for the latest generation of military rebels.

But let us go back to this Christmas season ceasefire a bit more. It is more precisely referred to as: “A reciprocal suspension of offensive military operations (SOMO)”. In the absence of more specific bilateral guidelines and mechanics, this can be subject to different nuanced interpretations and applications, especially down the chain of command.

Armed Forces of the Philippines (AFP) Chief of Staff Gen. Ricardo David, Jr. has said that: “However, this [reciprocal suspension of offensive military operations] will not preclude soldiers from taking appropriate actions in self-defence and in order to protect our people and communities from armed threats”. One could argue that the New People’s Army (NPA) can, imaginably, make the same statement, thus making it “reciprocal” in a sense not necessarily in the spirit of the ceasefire declaration and of the season.

¹ During the first year of the first Arroyo administration (2001-04) there were, previous longer Christmas season.

AFP Chief Gen. David added: “What is suspended is the offensive, meaning we’re not going to the mountains to fight. Once we are attacked, we will defend (...). We will not relax, because there might be some violations and there might be threats in the communities so intelligence must be there. If these communities report to us some threats, then we will respond accordingly”. Somewhat dissonant to this is the reported statement by Lt. Col. Noel Vestuir, the 8th Infantry Division, Philippine Army spokesperson: “While there will be a suspension on our military operations during this time, it will not mean that we will cease on being on offensive mode. The rebels might take advantage of the situation (...). We will continue our mission defending the security of our people, (especially in the hinterlands)”. Hmmm.

AFP Northern Luzon (Nolcom) Command chief Lt. Gen. Gaudencio Pangilinan put it more optimistically when he said he believed that both sides would be able to honour their SOMO commitment, adding: “Everything is in good faith”.

A leap of faith.

Speaking of which, certain faith leaders, in particular some Catholic bishops, have called for a lasting or permanent ceasefire extended well beyond the Christmas season. Others would nuance this by calling for what would seem to be the logical arrangement of having a ceasefire during peace talks, in support, and as part of that peace process. For some, even more important is the respite from the fighting that a ceasefire would provide for conflict-affected communities in the countryside; some kind of peace dividend in terms of a favourable climate for socio-economic recovery and even development.

But still, sometimes, “ceasefire” seems to be the hardest word.

For revolutionary forces like the NDFP, a prolonged ceasefire would be counter-productive to the momentum of revolutionary armed struggle as the principal and main form of struggle in a strategy of protracted people’s war whose objective is to achieve the radical social transformation needed to solve the basic problems of the Filipino people. Thus, for the most part, the NDFP has been averse to a ceasefire, especially a prolonged one. But so has also been the AFP for the most part, seeing a ceasefire as not only arresting the momentum of its overall counter-insurgency operation plans (Oplans), but also as providing a respite, which the NPA would take advantage of to regroup, regain strength, and recover lost ground. Thus (unlike the case of the Mindanao peace process

with the Moro National Liberations Front –MNLF- and Moro Islamic Liberation Front –MNLF-), the *norm* for the GPH-NDFP peace negotiations has been to have no accompanying ceasefire; a mode of “fighting while talking”.

Is it time for some *paradigm* shift on that mode on the GPH-NDFP front of war and peace?

We refer to a current paradigm particularly on the NDFP side that views ceasefire not so much as a specific goodwill and confidence-building measure for peace talks to move forward, but, instead, as a way to end hostilities and disposition of forces (EOH/DOF) that should come, if it comes to that, only last, at the end of successful peace talks². Thus, to talk of a prolonged, indefinite, or permanent ceasefire at the current juncture would be, for the NDFP, tantamount to premature lying down of arms, surrender or capitulation to the class enemy. This shows how important continuing armed struggle is to the NDFP.

Aside from the NDFP’s overarching strategy adverted to above, continuing armed struggle is also seen as necessary pressure to keep the GPH honest in the peace talks, as well as an insurance in case these talks collapse as they have for several times (including notably in early 1987 under the first Aquino administration). The NDFP considers the related 60-day ceasefire, then, as a particularly negative experience because the surfacing of NDFP cadres to fill the NDFP seats in the various agreed ceasefire mechanisms and committees at several levels, especially the regional, resulted in their exposure to AFP surveillance and intelligence-gathering, to the later extreme prejudice of many of these cadres.

The NDFP has, for the most part, been open only to short-duration ceasefires, like those for the Christmas season, which is nationwide, and those for humanitarian reasons in limited calamity areas, like most recently the six towns around the erupting Bulusan Volcano in Sorsogon. But that has not always been the case. For example, the NDFP (and for that matter the AFP) did not respond positively to civil society peace advocate calls in December 2004 for a humanitarian ceasefire in three flood- and landslide-stricken towns (Infanta, Real, and General Nakar) in northern Quezon. These short-term duration ceasefires do not require elaborate ceasefire mechanisms, especially where it is just a matter of a reciprocal, or even unilateral, SOMO. It is in case

² As per the agenda framework of The Hague Joint Declaration.

of long-term duration, or interim (during peace talks), ceasefires that such mechanisms become necessary, like notably in the GPH-MILF peace process, where the ceasefire is maintained even during the suspension of peace talks.

But for the NDFP, and based on their bitter 1987 experience, there is the *paradox* that such mechanisms for effective ceasefires are problematic. We are paying much attention to the NDFP perspective on ceasefires because its concerns, issues and points raised have to be addressed if we want to convince them to engage into whatever ceasefire.

There is also a question of sincerity in the peace talks involved here. While continuing armed struggle (thus, non-ceasefire) is seen by the NDFP as necessary pressure to keep the GPH honest in the peace talks as well as an insurance in case these talks collapse, the NDFP might also be asked: does it expect (or even intend) that the peace talks will collapse, which is why it insists on continuing armed struggle even during peace talks? Is continuing armed struggle “a favourable climate for peace negotiations”? Does it build “goodwill and confidence”?

If the warring parties believe that peace negotiations are the way to go, and if they believe that they have fair prospects of succeeding, then the normal thing to do would be to have an interim ceasefire so that precious and irreplaceable lives of soldiers, rebels and civilians are saved from continuing armed hostilities. If there is going to be an eventual negotiated political settlement anyway, why waste these lives in the meantime? And so, aside from sincerity, there is also a question of the value given to human life. *At aanuhin pa nganaman ang damokungpatayna ang kabayo?* (What are you going to do with the grass if the horse is already dead?)

“A just and lasting peace”, if there will be one, is for the living, not for the dead.

At the same time, peace talks cannot go on interminably without any outcomes in terms of social, economic and political reform measures. Peace talks cannot, or should not, be (as they are becoming), as protracted as the four decades of armed conflict. Although if you ask them, most conflict-affected communities (such as the Agta tribal folk in the Sierra Madre mountains) would not mind protracted peace talks as long as they are accompanied by protracted ceasefires. As they would often say, they just want to be left alone by the warring parties so that they can live their lives in peace.

One arrangement that would be fair, even to the revolutionaries, if not to the broad masses of the people, would be to set up a reasonable time frame for peace talks *with* an accompanying ceasefire. The consequences of failure of the time-bound peace talks, as a kind of disincentive for failure, would be clear in terms of a return to arms. Instead of making an agreement on a ceasefire dependent on a certain level of progress at the peace talks (like the signing of comprehensive agreements, on certain sequential major substantive agenda items - particularly socio-economic reforms, and afterwards political and constitutional reforms-), the ceasefire could be agreed on at the beginning of peace talks and its continuation or discontinuation could be made dependent on such progress, or lack of it. In another manner of speaking, this ceasefire would be *both time-bound and agenda-bound*.

While in 2007 the NDFP rejected a GPH proposal for a three-year ceasefire, this decision was made in the context of a precondition for resuming peace talks. Three years can still be a reasonable time frame for peace talks *with* an accompanying ceasefire. Three years is reasonable given the six-year term of the new President Aquino and the heavy remaining major: "Substantive agenda of the formal peace negotiations (...) socio-economic reforms, political and constitutional reforms, end of hostilities and disposition of forces".

The first major substantive agenda item was already disposed of through the 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). Even if this was the easiest of the major substantive agenda items, it took practically the whole six-year term of the Ramos administration (1992 to 1998) to complete it. Implementing the CARHRIHL has been, and still is, problematic and, therefore, this is an issue that should also be addressed by the coming talks.

So, even three years may be too short rather than too long. In any case, the parties have shown some flexibility with several schemes for the acceleration of the formal peace negotiations, though these have been easier said than done.

In any case also, the indicated accompanying ceasefire can be simply the same kind of reciprocal or mutual SOMO, like the one for the current Christmas season. There is no need for the frills of an elaborate ceasefire mechanism if by avoiding this a repetition of the NDFP bitter experience of 1987 can be avoided too.

Civil society peace groups can also do their part in monitoring such ceasefires. Sulong CARHRIHL has issued a series of “Citizen’s guidelines” to monitor the current Christmas season ceasefire.

But what can then the NPA do during a, say, three-year ceasefire? Well, it can do what the AFP does, including keeping itself trim and fit, or in fighting form, short of fighting against the other party to the ceasefire. It can also consult the MILF, its fellow Non-State Armed Group (NSAG), and tactical ally, which is well versed in the ceasefire mode. And the NPA knows quite well that there is so much more that is important that a people’s army can do (including but not limited to the military field) other than military offensives.

The NDFP should take a leap of faith too (as the MILF has) in giving the peace talks a chance, albeit within a reasonable time frame, which does not need to be static, and which can depend on the dynamics and directions of the talks. An interim ceasefire to accompany the talks is certainly among possible “specific measures of goodwill and confidence-building to create a favourable climate for peace negotiations”. It is not lying down of arms. In a ceasefire, the force concerned keeps its arms but does not engage in military offensives.

The “end of hostilities and disposition of forces” as the last major substantive agenda item of the formal peace negotiations would normally involve a permanent ceasefire and the lying down of arms (as in DDR), but surely The Hague Joint Declaration signed by the NDFP does not frame or treat this as surrender or capitulation.

Give peace a chance, give ceasefire a chance.

PEACE AGREEMENT IN 18 MONTHS (BY JUNE 2013)
WITH INTERIM CEASEFIRE, OR ELSE...

Naga City, December 5, 2011

This is, again, that time of the year for possible unilateral announcements by the Government of the Philippines (GPH) and the National Democratic Front of the Philippines (NDFP) on a Christmas season ceasefire. Surely, a holiday not only from work but also from the fighting would be welcome by most people any time. But it is also time to go beyond almost ritualistic declarations of a Christmas and New Year ceasefire.

What is really needed by the people now is a bold breakthrough in the current impasse of the GPH-NDFP peace negotiations that are stalled anew; but what else is new?

This time is the issue of the release or non-release by the GPH of the claimed NDFP consultants who are detained.

This kind of regular bog-downs on non-substantive agenda matters has become part of the historical pattern of these, more-off-than-on, negotiations for nearly 20 years: a historical pattern of protracted peace negotiations rivalling the prolongation of the protracted people's war (and the counterpart counter-insurgency war) for more than 40 years.

This pattern needs to be decisively broken if there is to be any sustained hope for, including public confidence in, this particular peace process. The GPH and NDFP owe this to the people who they say have: "High hopes for the advance of the peace negotiations and the forging of agreements addressing the roots of the armed conflict [through] basic social, economic and political reforms".

The bold challenge is this: start the New Year on new footing by hitting the ground running on the general timeframe of 18 months for completing the comprehensive agreements on the remaining items of the substantive agenda, especially on socio-economic reforms and political-constitutional reforms. This timeframe was already agreed on by the GPH and the NDFP in their Oslo Joint Statement (OJS) of February 21, 2011 upon resumption of formal peace negotiations after an impasse of almost seven years under the second Arroyo administration (2004-10).

The said previous impasse (2004-11) was mainly occasioned by the non-substantive agenda issue of the international “terrorist” listing of the Communist Party of the Philippines (CPP), New People’s Army (NPA), and NDFP Chief Political Consultant Jose Maria Sison. That “terrorist” listing issue has never been resolved, but it certainly did not prevent the resumption of formal talks in February 2011. In fact, it was no longer mentioned therein, at least in the OJS. Nor has it been mentioned as an issue in the current impasse.

This does not mean that the issue of the GPH release of the detained NDFP consultants would no longer be discussed as a peace talks agenda matter. Rather, it means that the pendency of this issue should not prejudice the peace negotiations on the substantive agenda, which, after nearly 20 years, should be already treated with the top prioritization that it deserves.

The Hague Joint Declaration (THJD) of September 1, 1992, the main standing framework document for the GPH-NDFP peace negotiations, indicates that: “The substantive agenda of the formal peace negotiations shall include human rights and international humanitarian law, socio-economic reforms, political and constitutional reforms, end of hostilities and disposition of forces”. After completing negotiations on the first substantive item, with the forging of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) in 1998, the logical next steps are to complete the negotiations on the three remaining substantive items in the said agenda. These are the top priority issues, neither the GPH release of the detained NDFP consultants, nor the “terrorist” listing of the CPP, NPA and Sison, even though these are also important issues.

The current non-substantive agenda issue of the GPH release of the detained NDFP consultants raises, for the NDFP, issues of the GPH failure to comply with its obligations under existing agreements like the 1995 Joint Agreement on Safety and Immunity Guarantees (JASIG), and of the implications of this failure on the whole peace negotiations, including confidence in the talks and on the GPH’s commitments and its capacity to undertake subsequent bigger, as in substantive, obligations. This is already being considered by the NDFP as: “Just ground to withdraw from the peace negotiations”. For some on the GPH side, not necessarily its peace panel, the issue raises questions about the NDFP’s instrumentalization of the peace negotiations to achieve the mere tactical outcome of securing the release of the “high value” captured CPP-NPA cadres, thus, “unfairly” negating at the negotiating table what has already been “fairly” gained in the battlefields of the war front.

Many, if not most, of the claimed NDFP consultants who have been captured do not appear to have track records in the peace negotiations. There are, thus, questions of sincerity raised *by* and to both sides; questions about whether they are really sincere in peace negotiations as a mode to resolve the armed conflict and for the attainment of a just and lasting peace, or whether these are just in the service of a primary war strategy, be it Oplan Bayanihan³ or the PPW drive towards a strategic stalemate within five years.

The current non-substantive agenda issue of the GPH release of the detained NDFP consultants has also moved in typically super-contentious discussion (bickering is more like it), to the plane of fidelity to, or undermining of (even attacking), their existing agreements especially the already mentioned THJD, JASIG and CARHRIHL.

Take the framework agreement that is THJD. The issue here has to do with the differing perceptions or understandings by the GPH and the NDFP on the general concepts and principles found in the THJD paragraph four: “Mutually acceptable principles, including national sovereignty, democracy and social justice”, and: “The inherent character and purpose of the peace negotiations”. The parties’ subsequent Breukelen Joint Statement (1994) stated, among others, that: “The GPH and the NDF reaffirmed their adherence to The Hague Declaration (....). Both sides recognize the need for further discussion on the provisions of The Hague Declaration that will lead to agreements in order to realize the objectives of The Hague Declaration”.

Why not, instead of going around in circles in an academic-type discussion on abstract general concepts and principles, bringing this discussion further straight to fleshing out, concretizing the three remaining substantive items in the THJD-mandated agenda? The proposal is to concretize the latter with specific agreed social, economic and political reforms which are, after all, what really count in addressing the root causes of the armed conflict. Lets the discussion of specific reforms and not issues, like the release of NDFP consultants or removal of “terrorist” listing or even the use of landmines be the litmus test on the sincerity of the parties and on the viability of their peace negotiations.

Both parties have already agreed that this can be done in 18 months or so. This is your opportunity to prove it to the people whom you both invoke. And, then, lets cross the bridge (or the Rubicon) at the end of 18 months.

³ Oplan Bayanihan” is a counter-insurgency strategic plan named after, and using, the concept of a Filipino custom of community action.

Since there is already an agreed peace talks mechanism of reciprocal working committees (RWCs) and Working Groups for the discussion of the three remaining substantive items in the THJD-mandated agenda, the nonetheless important (though secondary) *non-substantive* agenda item of the release of the NDFP consultants, and, for that matter, other issues like the use of landmines, can still be simultaneously addressed or, at the very least, initially processed, by an appropriate mechanism, such (as most logically and practically) the Joint Monitoring Committee (JMC) for the CARHRIHL, so that these do not unduly “draw attention away” from the substantive talks.

The successful resumption of the formal peace negotiations from 15 to 21 February 2011 in Oslo, Norway facilitated by the Royal Norwegian Government (RNG) shows that such negotiations can be held even without yet the release of the 13 or so, remaining claimed NDFP consultants who are detained⁴. At any rate, the GPH has said that it may still undertake more releases of detainees on the basis of “confidence-building measures” or “humanitarian and other practical reasons” per the OJS.

In fact, aside from specific measures of goodwill (like the release of prisoners and detainees on both sides), the OJS also provides that: “To build confidence and create a favourable atmosphere on the occasion of the resumption of the formal talks after more than six years, each Party declared a unilateral, concurrent and reciprocal ceasefire during the formal peace talks from February 15 to 21, 2001”. Now, why can’t this kind of unilateral, concurrent, and reciprocal ceasefire be applied to the whole 18 months timeframe for completing the comprehensive agreements on the remaining items of the substantive agenda, which we proposed to be from January 1, 2012 to June 30, 2013? The peace challenge to the GPH and the NDFP is at least two-fold:

- [1] Produce Comprehensive Agreements on Socio-Economic Reforms (CASER), on Political and Constitutional Reforms (CAPCR), and on End of Hostilities and Disposition of Forces (CAEHDF) within 18 months; and
- [2] Produce a unilateral, concurrent and reciprocal ceasefire to build confidence and create a favourable atmosphere during the same period of peace negotiations.

⁴ The GPH says it had already released five out of 18 claimed NDFP consultants who have been detained.

Contrary to the NDFP position according to which such a longer than usual ceasefire would: “Draw attention away from the roots of the armed conflict” it is the continuing armed hostilities, especially the major incidents and even arrests (witness for example those of CPP high-level cadres from and in Bicol, Sotero Llamas in 1995 and Danilo Borjal in 1996), that “draw attention away” from and often actually disrupt substantive talks on reforms to address those roots. To paraphrase George Santayana, *those who cannot remember the past history of the peace talks are condemned to repeat it.*

True, there is also the past history of ceasefires to remember; from the NDFP’s valid perspective: “During the ceasefire talks and ceasefire agreement in 1986 and early 1987, the NDFP personnel and allies were put under surveillance by enemy intelligence. Afterwards, a number of them were arrested, tortured and killed”. But these dangers would appear to be obviated by the scheme of each Party declaring a unilateral, concurrent and reciprocal ceasefire for the period involved, without anymore setting up elaborate ceasefire mechanisms.

The NDFP has actually offered the GPH a “shortcut” of an immediate “truce and alliance on the basis of a general declaration of common intent”. If by the latter, the NDFP means a commitment to what is basically the NDFP 10-point program albeit capsulized, then realistically it should not expect the GPH to hand this on a silver platter. Statements of general concepts and principles like “genuine land reform” and “national industrialization” are no longer enough and can be just as subject to “honestly different” interpretations as “national sovereignty, democracy and social justice”. The devil is in the key details of the various possible social, economic and political reform measures.

The proposed “General declaration of common intent” can become a strong commitment to pursue and complete the resumed peace negotiations on the remaining substantive agenda with all due seriousness, focus and deliberate speed within the agreed reasonable timeframe and without undue delays and distractions. This kind of common intent should already suffice to justify a truce or interim ceasefire, even if not yet sufficient to justify an alliance or partnership.

Needless to say, pursuing, and even more, completing the resumed peace negotiations on the remaining substantive agenda is easier said than done. And more so with a “shortcut” 18-months timeframe. In any case, the parties have shown some flexibility with several schemes for the acceleration of the peace negotiations. And we are also taking a leap of faith, given historical

patterns, that they can do it in only 18 months. But if they can agree on the key details even only of land reform, military reform and electoral reform, then they would have done well enough so as to perhaps justify giving them and the process more time for completion and even possible transformation, including the continuation of war “by other means”.

In the meantime it is still better that the parties devote their verbal and written energies to the remaining substantive agenda, rather than to their current puerile and belligerent bickering and blame-pointing, as if they were fighting children, on the issue of release of detained NDFP consultants and, lately, on who among them has in effect, unilaterally, “postponed” the peace talks. When one side says that the other side: “Engages in continuous, vicious, deceptive and even simplistic propaganda attacks” it can be said to be vice-versa. There is a need to tone down this kind of verbal and written belligerency. Along with the continuing armed hostilities, these only draw attention away from, obfuscate, the substantive issues of the armed conflict. They are counter-productive to the spirit of encouraging and accelerating the peace negotiations.

**JUST DROP THE CHARADE OF PEACE TALKS,
FOCUS ON THE DOABLE (ESPECIALLY FOR HUMAN RIGHTS
AND INTERNATIONAL HUMANITARIAN LAW)**

Naga City, October 8, 2012⁵

More than one year and seven months after the Oslo Joint Statement (OJS) by the Government of the Philippines and the National Democratic Front of the Philippines (February 21, 2011), which marked the resume of formal peace negotiations under the current Aquino administration, after an impasse of almost seven years under the Arroyo administration, both the verbal and body language of both parties have made clear that those supposedly resumed negotiations are going nowhere. In fact, to call a spade a spade, to say that the Emperor has no clothes is probably long overdue: the GRP/GPH-NDFP peace talks have become a charade; the parties have no real political will to earnestly see the talks through in an honest to goodness peace process.

It would be better, then to just stop the charade, the pretence, so as to not continue to raise any illusions or false expectations (if still any) about it among the people. It would be better to, then, be guided accordingly, and to redirect the main effort to something truly feasible and still desirable, even if it is not the most ideal result of “resolving the armed conflict” and “attaining a just and lasting peace”.

The way things stand, one important objective, which is still doable and desirable, even in the face of continuing armed hostilities (and precisely because of them), is to achieve the best possible “respect for human rights and International Humanitarian Law (IHL)” in order “to ensure the protection of non-combatants and reduce the impact of the armed conflict on communities found in conflict areas”.

But even achieving this objective will need to break out the stalemated dynamics of the peace negotiations, and all concerned (not just the two warring parties) will have to find new and better ways to protect civilians.

⁵ The writing of this article started several days before the presidential announcement of a new GPH-MILF framework agreement (October 7, 2012), and it was completed the day after the announcement. The announced development is relevant to this article's comparisons between the GPH-NDFP and GPH-MILF fronts of war and peace. Ironically, the new substantive progress on the GPH-MILF peace front does not change, on the contrary reinforces, this article's loss of hope in the GPH-NDFP peace negotiations.]

Low-Intensity Effort and Dedma

It is evident that both parties to this armed conflict, but more so the NDFP to be fair about it, do not have their hearts into their peace negotiations. After an already long impasse since 2004, and through the supposed resumption way back on February 2011, they have only shown a low-intensity effort to engage with them. They are not trying hard enough to effectively, practicably and flexibly deal with, and dispose of, real and imagined obstacles in order to be able to proceed from that breakthrough resumption. Worst of all, they imagine, or even place themselves, the obstacles when there really should be none. Theirs is a clear negative example of the saying: *“kung gusto, ay may paraan; kung ayaw, ay maramingdahilan”* (“if they want it, there are many ways to get it going; if they don’t want it, there are many reasons to avoid getting down to it”).

Up to now, the impasse is ostensibly due to the main *non-substantive* issue of the GPH release or non-release of claimed NDFP consultants who are detained. The parties cannot seem to find a way to, as we said, effectively, practicably and flexibly deal with, and dispose of, this so-called obstacle, notwithstanding various proposals of how to go about or around it.

This independent peace advocate made his own specific and fully argued proposal relayed to both peace panels as a “Peace challenge” way back December 2011: [1] to just proceed forthwith to the peace negotiations on the three remaining *substantive agenda* headings (of socio-economic reforms, of political and constitutional reforms, and of end of hostilities and disposition of forces) for completion with comprehensive agreements over an already agreed time frame of 18 months (e.g. January 2012 to June 2013), [2] accompanied by a “unilateral, concurrent and reciprocal ceasefire” to build confidence and create a favourable atmosphere during the same 18-month period of peace negotiations, and [3] with the secondary *non-substantive* issues like the release of claimed NDFP consultants to be initially addressed or processed simultaneously or in parallel, not as “prejudicial issues,” at a committee level lower than the panels, like the Joint Monitoring Committee (JMC), so that these do not unduly draw away the panels’ attention from the more important substantive talks.

This specific proposal has not been responded to adequately by both panels, other than a thank you letter from the GPH Panel Chairperson Alexander A. Padilla acknowledging our suggestions as “valuable inputs”. The response or

more precisely non-response from the NDFP panel side was simple *dedma* (feigned non-notice), apparently calculated so as not to give any importance or status to certain independent peace advocates (and advocacies) not in their comfort zone. Both sides clearly cannot find it in themselves, cannot find enough will and ways, to just proceed forthwith to the more important substantive talks, as a number of concerned quarters like the Philippine Ecumenical Peace Platform (PEPP), the Waging Peace Conveners (with last Easter Proposals), and the Ecumenical Bishops Forum (EBF) have called for over the past months at least since the Christmas season last year. But all we get is *dedma*.

Strategy and Tactics

The “Peace challenge” paper of December 2011 already attributed the lukewarm attitude of both sides to earnest peace negotiations to the greater importance they give to their respective current war strategies, whether it be the relatively new and more sophisticated Internal Peace and Security Plan (IPSP) *Bayanihan* of the Armed Forces of the Philippines (AFP), or the old protracted people’s war (PPW) strategy of the Communist Party of the Philippines (CPP)-New People’s Army (NPA) with its current drive towards a strategic (military) stalemate within five years or so.

But, without negating the root causes of the armed conflict, government responses are also largely shaped by the main form of struggle adopted by the revolutionary forces challenging it. The CPP-NPA-NDFP has long waged, and continues to wage, armed struggle as its main form of struggle to overthrow the ruling “semi-colonial and semi-feudal” system and replace it with a “national-democratic” one. Thus, even as it engages in peace negotiations, it does so as a tertiary form of struggle that is subsumed under and must serve the PPW strategy with armed struggle as the main form of struggle. This is why the NDFP is “allergic” or averse to any prolonged ceasefire to accompany peace negotiations. Thus, for the NDFP, “ceasefire” seems to be the hardest word. It’s almost like don’t even think of proposing to them any ceasefire longer than one week or at most one month.

In the contrary case of the NDFP’s tactical ally, the Moro Islamic Liberation Front (MILF), a general ceasefire was one of its first significant agreements with the government in 1997. More importantly, the MILF has long shifted from armed struggle to peace negotiations as its main form of struggle and strategy to achieve its desired Bangsamoro self-determination. The government response has been to constructively engage the MILF (actually

itself also constructively engaging the government) mainly through peace negotiations. This engagement, at least on the part of the MILF, is strategic, and not just tactical, as has long been the case in the NDFP's engagement in peace negotiations with the government.

Historically, the NDFP has had only tactical objectives for the negotiations: international diplomatic recognition of so-called status of belligerency (SOB); propaganda; prisoner releases; and more recently to help secure the legitimacy of the CPP, NPA and NDFP Chief Political Consultant Jose Maria Sison internationally in view of their "terrorist" listing. There has been no strategic decision (unlike the case of the MILF) to give peace negotiations a real chance for a negotiated political settlement. This is why we earlier said that it is more so the NDFP than the GPH that does not have their hearts into their peace negotiations. Otherwise, the GPH could also constructively engage the NDFP in serious strategic, not just tactical, peace negotiations, just like the case is with the MILF in the GPH-MILF peace negotiations.

As for the CPP's contention that the Aquino regime is: "Using peace negotiations to hoodwink" the MILF, let it be the best judge of that. For the MILF itself to persist in this particular peace process engagement, notwithstanding its tactical ally's (NDFP's) kibitzing, speaks for itself as to the seriousness of those negotiations. And so can it be with the GPH-NDFP peace negotiations – IF these are strategic, not just tactical, and, if the parties will allow it or treat it so. It is the NDFP, however, who has articulated more calculatedly a certain political or propaganda line about these negotiations. This is the line we shall now proceed to deconstruct in order to support the main thesis of this article: to just stop this charade of negotiations and do something sincere/honest instead, with doable concrete benefits even if not of that high policy level of a negotiated political settlement.

High Peace Policy Statements

On its 43rd anniversary on December 26, 2011, the CPP highest policy statement said: "The Aquino regime has simply shown its lack of sincerity and seriousness in peace negotiations with the NDFP. We should dispel any illusion that the regime is interested in addressing the roots of the armed conflict and forging agreements with the NDFP on social, economic and political reforms. Clearly, it is hell bent on destroying the Party and the revolutionary movement".

This statement was followed by another CPP high policy message on the 43rd anniversary of the NPA on March 29, 2012 that said: “The Aquino regime is not interested in serious peace negotiations with the NDFP. Within the framework of its Oplan Bayanihan, it considers peace negotiations only as a means to divide and weaken the revolutionary forces while it escalates brutal military campaigns of suppression to ‘decimate’ the armed revolution and suppress the people’s resistance. Unwittingly, it is inciting the people and the revolutionary forces to intensify their armed resistance and to advance the people’s war from the strategic defensive to the strategic stalemate”. And so, the CPP-NPA shows its slip, as it were, on what their hearts, minds and hands are really into.

If what the CPP saying is true, or if it believes its own propaganda line that: “The Aquino regime is not interested in serious peace negotiations with the NDFP”, then the logical, honest or even honourable thing to do is to pull out from those negotiations. But no, instead the afore-cited CPP anniversary statement says: “However, we continue to express our desire for peace negotiations in order to prevent the enemy from claiming falsely that we are not interested in a just and lasting peace, and also to keep open the possibility that the enemy regime would be compelled by the crisis and/or by our significant victories in people’s war to seriously seek negotiations. Indeed, the only way to compel the enemy to engage in serious negotiations is to inflict major defeats on it and make it realize the futility of its attempt to destroy the revolutionary movement, especially the people’s army”.

The CPP is in effect saying that it/we must continue this charade of peace negotiations if only for the propaganda measure of countering whatever anti-peace image unfavourable to it. The talks are going nowhere, and the parties know it, but of course neither side wants to be blamed as responsible for terminating it. But because its heart is not really into it, the CPP then makes its “maramingdahilan” (many reasons) not to proceed with the negotiations: “The formal meetings in the GPH-NDFP peace negotiations cannot be held unless the GPH addresses the prejudicial issues [especially the release of the claimed NDFP consultants] being raised by the NDFP and makes amends.” And so it becomes like a self-fulfilling prophecy on the futility of negotiations with the enemy regime that is said to be not serious about it (in fairness to the CPP, there is also some basis for saying this).

Militarist View and Weapons-Driven Approach

The above CPP statement also reveals its rather militarist view of, and approach to, peace negotiations, as in “compel the enemy” through military pressure to seriously negotiate and grant concessions. Aside from the primacy of the armed struggle in the CPP-NPA’s PPW strategy, this view, this approach, accounts for its aversion to ceasefires to accompany peace negotiations. It is extremely hard to see how continued tactical military offensives, rather than a general ceasefire (the case with the MILF), might constitute: “Specific measures of goodwill and confidence-building to create a favourable climate for peace negotiations”. The said view/approach also indicates that the CPP-NPA does not really expect anything significant in terms of substantive reforms, and much less a negotiated political settlement, to come out of the negotiations. Otherwise, why invest so many precious lives of its Red fighters?

On the other hand, is the CPP in effect saying that its tactical ally MILF’s peace negotiations with the GPH are not serious because of its accompanying ceasefire (which naturally does not “inflict major defeats” on the AFP)? Tell that to the MILF. A perusal of the afore-cited CPP-NPA high policy level anniversary statements, particularly the sections on “Urgent fighting tasks,” shows that there is *nothing in terms of urgent tasks for the peace negotiations*, whilst there is very much on inflicting major military defeats on the enemy regime in order: “To advance the people’s war from the strategic defensive to the strategic stalemate”.

For example, in terms of “intensifying the people’s war,” the afore-cited CPP anniversary statement contains quite specific military instructions or guidance, including: “We must hamper and prevent enemy intrusions into the guerrilla fronts through ambushes and other actions, including sniper fire, grenade attacks, mortar and land mines. We must destroy the transport and supply lines and depots of the enemy. We must give the enemy forces no rest by launching attacks on their camps and detachments whenever possible, even at night. When enemy personnel hide in fortifications, we can wait for them to take the road and expose themselves to our attacks”.

The afore-cited NPA anniversary message follows through on this sort of guidance: “Small teams can be trained and employed to use AMFO (ammonium nitrate fuel oil) bombs, plastic bombs, TNT and incendiaries, including modest cigarette lighter, to destroy target objects such as military vehicles, facilities, fortifications and other fixed structures. Land mines, sniping and grenade

throwing can be employed to impede enemy troop movement or harass any encamped force [author's insertion: like the one on September 1, 2012 in Barangay Fatima, Paquibato District, Davao City, which resulted in shrapnel injuries to 48 civilians, 18 of whom were minors, and gasoline bombs to destroy fuel depots, motor pools and military planes and helicopters. Units of people's militias and self-defence forces are also encouraged to employ indigenous weaponry such as punji-spiked booby-traps, produce explosives from unexploded munitions of the enemy and make use of local tactics in combination and coordination with the full-time formations of the NPA".

The afore-cited NPA anniversary message is titled: "Strengthen the people's army and intensify the people's war". The message explains that accent on the NPA: "The Party considers the NPA as the key force for advancing the people's war from the strategic defensive to the strategic stalemate (....). It is responsible for annihilating the enemy military forces and laying the ground for establishing Red political power (....). The main objective is to wipe out enemy units and seize weapons, so that more units of the people's army can be formed. The people's army must seize several thousand more high-powered rifles and other weapons from the enemy".

In other words, the NPA is designed in such a way that it must engage regularly in combat; otherwise it will wither away. This is the way it survives and replenishes itself, by paying special attention to seizing enemy weapons that allow it to form more NPA units. This seems to be an inordinately weapons-driven approach. And to seize those weapons, the enemy units carrying them must be annihilated or wiped out (the context of course is legitimate combat, but it smacks almost of killing primarily for the weapons). There can, thus, be no ceasefire, particularly one that is unduly long from the NPA perspective. And the peace negotiations cannot be allowed to dilute or distract away from the: "Urgent fighting tasks".

Social Costs and Root Causes

But the price for this approach is very costly in terms of precious lives that are irreplaceably lost, including of the best and the brightest sons and daughters of the people, on both sides, and among the civilians caught in the crossfire.

One must ask if after more than four decades of protracted people's war is it still worth it (even from the revolutionary perspective) to be in the strategic defensive stage.

Of course, Sison has his own sophisticated answer by way of saying that: “The costs of keeping the reactionary ruling system are far higher than the costs of waging armed revolution. Exploitation and oppression exact a terrible toll on the people and are precisely what drive people to wage armed revolution. We should be able to see the high cost of the violence of daily exploitation to recognize the necessity and lower cost of armed revolution”.

There are of course social root causes of the armed conflict, but they can be addressed through the peace process.

NDFP-Bicol spokesperson Greg Bañares says: “We all dream of a real and long-lasting peace founded on social justice. It can be borne out of the success of the peace talks leaning on agreements that will solve the ills of our society”. But, and here is the catch, he also says: “Peace could also be achieved through the success of the revolutionary war (...). Whereas the peace negotiation has no clear direction, it is better to go on with the armed struggle”.

The peace negotiations actually have a clear general direction, which is found in *The Hague Joint Declaration* of 1 September 1992, the 20-year old framework agreement between the GPH and the NDFP for their peace negotiations. But for the most part of those past 20 years, the peace talks have been going nowhere, especially nowhere in that clear general direction. The parties have only themselves to blame for this, for squandering most of 20 years.

The CPP points the finger of blame on the Aquino regime, which it says is not: “Interested in addressing the roots of the armed conflict and forging agreements with the NDFP on social, economic and political reforms”. That may be true but, to be sure, one can only definitely affirm this once it has been proved through the practical course of peace negotiations. But precisely, the substantive negotiations on reforms have yet to be conducted. As we said in our “Peace challenge” paper of December 2011, let the substantive talks on specific reforms, not issues like release of claimed NDFP consultants or removal of “terrorist” listing or even the use of landmines – be the litmus test on the sincerity and seriousness of the parties, on who is interested or not in key reforms, and on the viability of their peace negotiations.

“Special Track” for “Immediate Just Peace”

The problem is that the parties do not have the requisite will to even simply bring it to the test of actual substantive negotiations. Perhaps this is already indicative of a sense, a calculation that nothing will come out of it. Even worse, it can indicate a policy decision preferring another mode (such as a military victory) to resolve the armed conflict. Possibly instructive in this regard is the NDFP proposal on a “special track of immediate truce and alliance on the basis of a general declaration of common intent”, which would, purportedly, “accelerate addressing the roots of the armed conflict.” This NDFP “special track” proposal includes a 10-Point *Concise Agreement for an Immediate Just Peace* (CAIJP), which could be described as a capsulized version of the NDFP political program in terms of its basic national-democratic program planks.

Significantly imbedded in the CAIJP, and found in three of its ten points, is the creation of a “coalition government.” This would, presumably, include the NDFP, which proposes it (a “coalition government” features, among others, “significant representation” of “the toiling masses of workers and peasants” – precisely the basic sectors which the NDFP claims to mainly represent). In addition, “alliance and truce become the *modus vivendi* of the GPH and NDFP.” As a come-on, “The civil war between the GPH and the NDFP shall cease and a just peace shall ensue” as soon as they co-sign the CAIJP.

Ano ang NDFP, sinuswerte? (How lucky can the NDFP be?) Does the NDFP honestly believe that the GPH would deliver the core NDFP political program, including seats in a “coalition government” on a silver platter?

The GPH Panel Chair Padilla has already stated that: “The GPH had already rejected this”, and that: “The GPH will never agree to establish a coalition government or a power-sharing arrangement with the NDFP-CPP-NPA”. [On the other hand, it must be noted at this point that the GPH and the MILF have agreed at least in principle and framework, if not also on key arrangements, on power-sharing and even wealth-sharing between the Central Government and a “new autonomous political entity” for the Bangsamoro and called “Bangsamoro.”]

Does the NDFP honestly believe that the GPH would agree to “alliance and truce” with a force that refers to it as the “U.S-Aquino regime” and is hell bent on inflicting major military defeats on it, if not overthrowing it?

Does the NDFP honestly believe that the GPH will find “common political ground” in the CAIJP’s flagship programs such as “national industrialization, and (genuine or revolutionary) land reform”, “a patriotic, scientific and pro-people culture”, “cancellation of the foreign debt”, “reduction of the appropriations for the military and other armed organizations of the GPH”, “a truly independent foreign policy”, and so on?

As it is, the GPH and the NDFP already have differing understandings of the “mutually acceptable principles” of “national sovereignty, democracy and social justice” in *The Hague Joint Declaration*. They are not on the same page, as it turns out, even on these general concepts and principles in their framework agreement. How much more when it comes to those flagship programs?

There is a sense that the NDFP “special track” proposal was made with the full expectation that it would be rejected as the kind of proposal that any Philippine government cannot but refuse. And so, why propose it in the first place?

The answer is found at the end of the CAIJP document: “Otherwise [i.e. if not co-signed by the GPH], the Filipino people and revolutionary forces are more than ever justified to continue the new democratic revolution through people’s war (...)”. Thus, it all goes back to the PPW strategy.

But for the NDFP to say on the other extreme that, upon the co-signing by the GPH of the CAIJP: “The civil war ends and a just peace is achieved immediately”, is also to raise false expectations about achieving peace. Institutional peace building just doesn’t happen that way. It begins (or should begin) not with the signing of a peace agreement, but even long before that, during the process surrounding the peace negotiations.

Thus far, we have deconstructed largely the NDFP’s political line about the peace negotiations, in order to argue the thesis of this article that the negotiations have become a charade. This purposive engagement is because the NDFP has articulated that line more calculatedly, consciously and prominently.

In contrast, the GPH has not been as voluble. But actions (or more precisely lack of action) can speak louder than words. The inaction of not trying, or of not trying hard enough, can belie whatever spoken words or intentions. One might say this, for example, about the published statement of the Office of the Presidential Adviser on the Peace Process (OPAPP) stating: “Amidst roadblocks in the GPH-NDFP peace process, the government remains firm on

its commitment to attain a final negotiated political settlement with the NDFP". How can the OPAPP even talk about: "A final negotiated political settlement" (and raise false hopes like the NDFP does with the CAJP) when the parties have not been able, for a considerable length of time already, to resume their formal peace talks, which still have to cover three major substantive agenda headings?

During an informal meeting initiated by the Royal Norwegian Government (RNG) in Oslo last June 2012 the parties agreed to: "Continue meaningful discussions on concerns and issues raised by both sides" (mainly about the level of violence and landmine use raised by the GPH, and about claimed political detainees and consultants raised by the NDFP). It is the RNG Third Party Facilitator, rather than the parties themselves, who has been exerting an extra effort "to revive the lagging peace process". And yet more than three months have passed, including the European summer vacation season (the NDFP peace panel is based in Europe), without any follow-up meeting on even these *non-substantive* "prejudicial issues".

But there has been no vacation or break on the war front.

"Strategic Stalemate": What is to be done?

And so, all told, there has been for some time already a "strategic stalemate", not in the military situation but in the more-off-than-on peace negotiations. It is about time that these, just like the ARMM, be declared to be a "failed experiment".

What is to be done then after just dropping the charade of peace talks?

The answer to this question deserves a separate fuller treatment. We will for now, however, outline here some thoughts about just one important particular area of concern and work; since the parties, especially the NDFP, have their hearts more into pursuing their respective deadly wars against each other, it is also in their respective interest, and more so of the civilian population in the war zones, that the war is conducted in accordance with the basic rules of Human Rights and International Humanitarian Law (IHL). Proof, though not necessarily the best evidence, of this common interest is their 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), considered, their first substantial agreement,

and likely the only one. In a manner of speaking, respect for human rights and IHL may be “the only game in town” on the GPH-NDFP front, certainly better than “playing our charade” of peace talks.

Unfortunately, the CARHRIHL’s implementation has also been stalemated, not only by the stalemated dynamics of the peace negotiations under which such implementation has been subsumed, but also by its stalemate-prone Joint Monitoring Committee (JMC) mechanism. Each party asserting their respective justice systems, in another game of “two governments”, and raising, again, the spectres of unconstitutionality and belligerency status, further complicates this. Perhaps the parties may want to consider at least “uncoupling” the JMC mechanism from the peace negotiations, so that its operationalization is not dependent on the state of progress (or lack of it) of the formal peace talks.

Human Rights and International Humanitarian Law (IHL) are ultimately too important to be left at the mercy of the JMC mechanism. As we said early, to break out the stalemated dynamics of the peace negotiations, all concerned, and not just the two warring parties have to find new and better ways to ensure civilian protection. The NDFP proposal for a “special track” for “immediate just peace”, no matter how politically unrealistic it is, at least shows that there can be some “thinking out of the box” of the “regular track” of four sequential substantive agenda stages in the peace negotiations as outlined in *The Hague Joint Declaration* and its 1995 implementing agreement on Reciprocal Working Committees (RWCs). Let this kind of “thinking out of the box”, creativity and flexibility manifest itself more in the direction of humanitarian protection.

For one, the CPP-NPA-NDFP national leadership should no longer discourage or prohibit its local commands from engaging in local-level talks (which are not local peace talks) addressing humanitarian concerns arising from armed hostilities at that level. The leadership should no longer proscribe this kind of local-level talks. Relatedly, local-level talks initiated by conflict-affected local communities, that seek respect for their own genuine declarations of their communities as “peace zones” off-limits to armed hostilities, should not be treated as necessarily a counter-insurgency measure to cramp or limit the areas for NPA tactical offensives. The whole countryside is vast enough for that.

Civil society peace groups, notably *Sulong CARHRIHL*, have tried to make CARHRIHL work, even without the stalemated JMC mechanism; *Sulong CARHRIHL* has focused mainly on working at the local community level, where, after all, the attention is most needed.

But, of course the broad work of advancing human rights and IHL is not limited to, and by, the CARHRIHL. The broad array of IHL (and also human rights) advocates who had gathered around the first National Summit on IHL in 2009 have since then significantly taken on, and stepped up, the work to address the relevant main challenges of:

- [1] Humanitarian intervention, especially during massive internal displacement due to armed hostilities;
- [2] Education, information and communications on IHL (and human rights); and
- [3] Monitoring, investigating and prosecuting IHL (and human rights) violations in the context of the armed conflict.

In this regards, the 2009 IHL Summit called on the Commission on Human Rights (CHR) to develop its own mechanism complementary to the JMC. The fact that an independent constitutional commission mandated for human rights concerns, with a nationwide offices, and with international links, is giving attention to the related, but distinct, field of IHL and to HR-IHL violations (not only by the state armed forces, but also of non-state armed groups) can be seen as positive. Seeking non-state armed groups accountability is a special challenge in itself due to various conceptual and practical reasons, including “no permanent address”.

Conceptually, there is the traditional notion that human rights and their violations pertain only to state agents, not to non-state actors. One of the best evidences and arguments against this traditional concept is the CARHRIHL itself, which holds a non-state armed group in the NDFP to standards of human rights and a measure, albeit limited, of accountability therefor. And yet the existing and pending legislation on torture, enforced disappearances and extra-judicial killings are by definition limited only to those perpetrated by state agents. Again, perhaps the best evidence and argument against that narrow (-minded) definition is the experience of the CPP-NPA anti-infiltration campaigns of the 1980s where all three crimes were admittedly committed.

There is a CPP-NPA organizational “plea of guilty” to these purge violations, but there has been inadequate accountability and redress. It is about time that those collective, as well as individual, human rights and IHL violations be given a more effective institutional redress in terms of truth, justice and healing for the purge victims and survivors and their families before the moment and memories are lost. Given the passage of time (with the legal rules

on prescription, albeit only for prescriptible common crimes, but not for war crimes and crimes against humanity, among others), there should be exaction of at least historical and moral accountability, if no longer legal accountability, such as through some form of “truth commission”.

The work of upholding respect for human rights and IHL in the context of the GPH-NDFP armed conflict may be well below the ideal and the high policy level of a negotiated political settlement. But aside from its more immediate value of civilian protection, HR-IHL work has a long-term strategic value and direction of laying better ground (and lowering the costs and antagonism) for a negotiated political settlement when the requisite political will and also paradigm shifts on both sides come about, hopefully sooner rather than later.

In the meantime, let’s not fool ourselves “playing our charade” of peace talks, and just devote our efforts, energies and valuable time to what can be realistically and beneficially done. This is the new peace challenge on the GPH-NDFP front of war and peace.

TERMINATED PEACE TALKS, INTENSIFIED ARMED CONFLICT: WHAT IS TO BE DONE?⁶

Naga City, May 27, 2013

(On the 55th birth anniversary of the late Mayor Jesse M. Robredo)

For all intents and purposes, the peace negotiations between the Government of the Philippines (GPH) and the National Democratic Front of the Philippines (NDFP), as we have known it over the years since 1992, have effectively come to an end, at least under the current Aquino administration.

Well, that is just as well. Late last year, I had already personally gone on record through a 10-page article saying that it was better to *just drop the charade* of peace talks that were going nowhere due to their extremely tactical dynamics. In the ensuing blame game that is still part of those counter-productive dynamics, the GPH is being blamed by the NDFP for unceremoniously terminating the talks purportedly to seek a “new approach” thereto. But under the circumstances, the GPH can be given some credit for this bold, if belated, move of dropping the charade even at the propaganda/public image risk of being blamed as responsible for terminating the talks.

But really, this peace process should no longer, even if it still could, continue to be conducted “in the old way” (to use revolutionary situation phraseology), which has made it a process of “perpetual division between the Parties”. The test of the pudding is in the eating, and the taste of the pudding has for the most part been bitter, sour and stale. A break, a real vacation from this status of belligerency (or strategic stalemate) in negotiations should prove salutary in the medium to long term, if it becomes an occasion for all concerned to take serious pause and rethink things.

New Realities

The end of the peace negotiations as we have known them is the key new reality in the GPH-NDFP front of more war than peace under the remaining three-year of the Aquino administration. NDFP Chief Political Consultant and Communist Party of the Philippines (CPP) leader Professor Jose Maria Sison has already stated: “these three remaining years are not too long to let them pass”.

⁶ With apologies to V.I. Lenin: *What is to be done? Burning Questions of Our Movement* (1902).

Whilst waiting for a new administration to resume peace talks with, the NDFP will focus on gaining a position of strength for whatever future negotiations or eventualities. These are a few more specific realities to bear in mind in regards to the peace process:

- “Intensified tactical offensives by the New People’s Army (NPA)”.
- This was already indicated by Sison and is being seen by incidents on the ground. The presidential spokesperson has dismissed this as “nothing new”, but there are actually some foreboding new directives in the CPP Statement on the 44th Anniversary of the NPA (March, 29 2013), including: “building guerrilla theatres [that] bring together the power of three to four guerrilla fronts that can reach brigade strength”; “advancing wave upon wave from the existing guerrilla fronts to create new guerrilla fronts”; and “fielding strike forces to intensify the tactical offensives”. GPH Negotiating Panel Chair Alexander Padilla, for his part, says that there is no GPH plan for an “all-out war” (recall then President Corazon Aquino’s “unleashing the sword of total war” against the NPA after the collapse of the peace talks in 1987). The NDFP, however, expects that the GPH is: “Now unencumbered in waging its Oplan Bayanihan war of suppression”. The CPP-NPA itself, even before this latest breakdown, has always felt unencumbered to: “Carry out the [five-year] plan to advance from the strategic defensive to the strategic stalemate”.
- Though this sounds like stating the obvious, there will definitely be no general ceasefire, as the CPP-NPA-NDFP does not want it (this is what is “nothing new”).
- On the other hand, and due to an overriding concern to lower the level of, if not end, the violence on the ground, the GPH wants a ceasefire (or truce) to be in place in the event of any further peace talks.
- But there will be no return to both the “regular track” and the “special track” of the peace talks, as the GPH will have none of that anymore. The GPH is seeking a, still undefined, “new approach”, but there are serious doubts that a mutually acceptable one can be found when the NDFP is asserting the “old way” of the peace talks. This “new approach” by the GPH may, thus, develop, if at all, into something outside the peace talks, at least the formal peace negotiations between Negotiating Panels.

- The only significant prior peace agreement left that is still mutually acceptable is the 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), but not its problematic propaganda-prone and stalemate-prone Joint Monitoring Committee (JMC) mechanism. The GPH will definitely no longer go by the 1992 Hague Joint Declaration, which was the long-time framework agreement for the “regular track,” as well as by the 1995 Joint Agreement on Safety and Immunity Guarantees (JASIG), which has occasioned the main recent non-substantive stumbling block (the GPH non-release of the remaining claimed NDFP consultants who are still detained).
- The NDFP: “Continues to assert the validity and binding nature of [all] the previously forged joint documents” and will resume formal peace negotiations only: “On the basis of upholding, respecting and implementing previously signed agreements”. For the CPP, these agreements represent no less than its correct strategy and tactics as well as gains in the peace negotiations. Since the GPH will definitely no longer go by the framework Hague Joint Declaration then there will likely be no resumption of formal peace negotiations under the Aquino administration.

A relevant side note here: framework agreements are not written in stone and can change, as they have, at particular junctures of the peace process. The best local example of this is the peace negotiations with the Moro Islamic Liberation Front (MILF) where there have been at least three framework agreements: the 1998 General Framework of Agreement of Intent; the 2001 Tripoli Agreement; and the 2012 Framework Agreement on the Bangsamoro (FAB). The main challenge is that this is not an acceptable model for the NDFP, which predictably and since 2008 has described the MILF-GPH peace process as: “U.S.-backed”, and more recently has stated that the FAB is: “A capitulation to the Manila government”.

- The GPH has broached the possibility of pursuing “localized peace talks”. Though the scope of such talks are not yet clear this could still be national-level peace talks with the local in-country actual leadership of the CPP. However, the CPP leadership has already shot this down, saying that “not a single unit of the NPA, committee of the CPP or organs of the NDFP, will fall for the Aquino trap of ‘localized peace talks’. Only the NDFP Negotiating Panel is authorized to engage the reactionary government in peace negotiations”.

Our Urgent Tasks⁷

This article is addressed to the GPH, the NDFP, the Royal Norwegian Government (RNG) Third Party Facilitator and civil society peace advocates. While we agree that a “new approach” or a new way is needed in the GPH-NDFP peace process (which is not just formal peace negotiations), we are not here outlining certain tasks and imperatives as necessarily part of or inputs for the kind of “new approach” that the GPH seeks. Our standpoint is not that of the GPH or, for that matter, of the NDFP in adversarial relations with each other, rather ours is the standpoint of an *independent* civil society peace advocate who supports peace processes for the resolution of armed conflicts. So, to a large extent, this article is addressed to similarly oriented peace advocates on what is to be done. While currently focused on more scaled-down and doable tasks, which are doable in the current situation and which can be extended throughout the second half of the Aquino administration there are definitely implications for beyond this timeframe. Although much of what follows has been said before, our arguments have been reframed to address the current situation:

1. Focus on Human Rights and Humanitarian concerns arising from intensified armed hostilities

This is obviously the most urgent task based not only on GPH and NDFP current needs, but also, believe it or not, on common desires and interests arising from the emerging intensification of the armed conflict, the continuing absence of a ceasefire, and the remaining mutual acceptability of the CARHRIHL as a term of reference. This most urgent task may be carried out both inside and outside the GPH-NDFP peace negotiations, as well as at the national and local levels. Although honest differences of interpretation of the CARHRIHL exist (notably when it comes to the use of landmines) only by working together can they possibly be sorted out.

Lets not allow the CARHRIHL to become another “document of perpetual division between the Parties”. Let them not forget that the CARHRIHL itself goes beyond CARHRIHL by its reference to “the principles and standards embodied in international instruments on human rights” (Part III, Article 1), to “generally accepted principles and standards of international humanitarian law” (Part IV, Article 1), to “the full scope of human rights, including civil political, economic, social and cultural rights” (Part II, Article 3), and to “universally applicable principles and standards of human rights

⁷ With apologies to Jose Maria Sison a.k.a. Amado Guerrero, Chairman, Central Committee, Communist Party of the Philippines, “Our Urgent Tasks,” *Rebolusyon* (CPP theoretical publication), maiden issue, 1 July 1976.

and of international humanitarian law (...) embodied in the instruments signed by the Philippines and deemed to be mutually applicable and acceptable by both Parties” (Part II, Article 4). Indeed, respect for HR and IHL is not limited by what is specifically provided for by the CARHRIHL, especially on the part of the GPH which has its own HR and IHL treaty obligations and as well as its own HR- and IHL-related national laws. We have already written on how the CARHRIHL can be maximized through its treaty connection that makes available to the Parties “the best that has been created by humanity” (to again use revolutionary phraseology) in terms of HR and IHL⁸.

In fact, come to think of it, the CARHRIHL provision that “The parties shall uphold, protect and promote the full scope of human rights” can become the basis for further agreements on socio-economic reforms and political-constitutional reforms. Even without reference to The Hague Joint Declaration and the 1995 Joint Agreement on the Formation, Sequence and Operationalization of the Reciprocal Working Committees (RWCs).

We have also already written on a Rights-Based Approach (RBA) to the peace talks, particularly when it comes to socio-economic and political reforms, which address the roots of the armed conflict and lay the basis for a just and lasting peace⁹. We there cited the 2004 thesis of now Commission on Human Rights (CHR) commissioner Atty. Jose Manuel S. Mamauag on a RBA as tool in evaluating the socio-political dimension of the GPH-MILF peace process¹⁰. The RBA has started to be used for development and for governance; why not as a framework for the whole peace process and a peace settlement? The previous work and drafts on a Comprehensive Agreement on Socio-Economic Reforms (CASER) and on a Comprehensive Agreement on Political and Constitutional Reforms (CAPCR) need not be laid to waste as these can probably still be made use of but possibly reframed under a RBA though not necessarily in comprehensive agreement form. But we may be getting too far ahead of ourselves at this present juncture. As we said, the minimum focus for now should just be better implementation of the CARHRIHL, whether the Parties work on this together (which still remains to be seen) or separately. Either way, any progress on this should help building confidence for whatever future substantive negotiations.

⁸ Soliman M. Santos, Jr., “Thought/Discussion Paper on Maximizing the GRP-NDFP CARHRIHL Through its Treaty Connection” (16 November 2004).

⁹ Soliman M. Santos, Jr., “A Rights-Based Approach to the GRP-MILF & GRP-NDFP Peace Talks” (11 April 2005).

¹⁰ Attorney Jose Manuel S. Mamauag, *Rights-Based Approach (RBA) as a Tool in Evaluating the Socio-Political Dimensions of the Peace Process with the MILF* (MNSA thesis, National Defense College of the Philippines, August 2004).

We have to break out of the stalemated dynamics of the peace negotiations, and all concerned parties, not just the two warring ones, have to find new and better ways to protect the civilians. For one, the CPP-NPA-NDFP national leadership should no longer discourage, or prohibit, its local commands from local-level talks that would more expeditiously and effectively address humanitarian concerns arising from armed hostilities at that level, as distinguished from “localized peace talks” that would purport to address national issues that are beyond and therefore, cannot really be fully addressed at that level; this kind of local-level talks should no longer be proscribed by that leadership as necessarily a counter-insurgency trap to pacify, divide and induce the capitulation of the revolutionary forces.

Relatedly, local-level talks initiated by conflict-affected local communities, including their local officials (like the late long-time and exemplary Naga City Mayor Jesse M. Robredo once did) seeking respect for their own genuine declarations of their communities as “peace zones” off-limits to armed hostilities, should not be treated as a counter-insurgency measure to cramp or limit the areas for NPA tactical offensives. The whole countryside is vast enough for that, as the annual CPP and NPA anniversary statements never fail to point out.

The work of upholding respect for HR and IHL in the context of the GPH-NDFP armed conflict may be well below the ideal and the high policy level of a negotiated political settlement. But aside from its more immediate value of civilian protection, HR-IHL work has a long-term strategic value and direction of laying better ground (and lowering the costs and antagonism) for a negotiated political settlement when the requisite political will and also paradigm shifts on both sides come about, hopefully sooner rather than later.

2. Work towards key reforms outside (but well informed by) the peace talks

Both the GPH and the NDFP actually agree that the: “Pursuit of social, economic and political reforms” is: “Aimed at addressing the root causes of internal armed conflicts”. For the GPH, this is the first of its “Six Paths to Peace” framework which also includes: “Peaceful negotiated settlement with the different rebel groups” as its third path, and: “Addressing concerns arising from continuing armed hostilities” as its fourth path – the latter being relevant to our first urgent task above.

Indeed, the comprehensive peace process is broader than “just” peace negotiations. Socio-economic, political and constitutional reforms are at the core of the substantive agenda of the GPH-NDFP peace negotiations. But such reforms can, and should be, pursued even outside the peace talks because the reforms are of value also outside that context. They are undertaken for their own sake because (to again use revolutionary phraseology) they “serve the people”.

If peace talks can benefit from inputs provided by reform-related work, then so too can reform-related work outside the peace talks benefit from inputs that may be drawn from its own accumulated work and documents.

Let it be clear that the motivation for this second urgent task should not be the often-expressed intent, even among avowed peace advocates, of making the CPP-NPA-NDFP “irrelevant”. Such a disdainful or counter-insurgency attitude does not do justice or give due credit to some of the just causes of the armed struggle, even as the viability of this form of struggle has become questionable, to say the least, after 44 years since 1969 and at the cost of more than 120,000 lives. The Philippine Human Development Report 2005: Peace, Human Security and Human Development in the Philippines said it well:

The human development perspective instead chooses to take insurgencies and armed conflicts seriously as mirrors to society. To be sure, mirrors may be distorted to a greater or to a lesser extent: ideologies and pet theories may exaggerate certain objectionable features and details and hide others. Dealing with them squarely, however, will always provide an opportunity for the current system to peer closely at itself and discover at least some of its defects.

The valuable contributions to the national agenda of the causes espoused by the various insurgencies are undeniable. The critique of the overweening influence of foreign powers (particularly the U.S) in the country’s political life was provided primarily by the Left movement, a national debate that finally led to the removal of U.S. bases in the country. The decades-old socialist and communist advocacy for land redistribution culminated ultimately in the government’s several agrarian reform programs.

In many ways, the insurgencies have helped Filipinos and their governments realize how they ought to build a more just, more democratic society¹¹.

Thus, among the recommendations in the *Philippine Human Development Report 2005* to: “Place the existing peace efforts on a sounder footing and lead to a solution to the conflict” are to “institute reforms in parallel” to the GPH-NDFP peace negotiations, to: “Undertake key reforms alongside and outside formal peace talks,” and to “undertake human development investments (in education, health, safe water, electricity and economic provisions) for their own sake”.

The key reforms referred to here relate to electoral and governance reforms and security sector reform (SSR). Instead of seeking to comprehensively cover socio-economic, political and constitutional reforms within a limited time frame, the idea is to focus first on a few selected issues of particular importance. The said two key reform areas are particularly important for the resolution of the armed conflict because of their relevance to the resort to armed struggle. In addition, SSR relates much to the above discussed now first urgent task of focusing on HR-IHL concerns especially vis-à-vis counter-insurgency strategy.

Electoral and military reforms in particular clash with key NDFP orthodoxies and doctrines, which are at the very heart of the national-democratic revolution. Elections clash with the NDFP view of armed struggle as the main form of struggle for social and political change, and so might confuse or deceive the people. In the NDFP’s view the military is the main coercive instrument of the state, which is to be smashed, not reformed, or improved as such. As for good governance, the NDFP can be expected to again play the game of “two governments” and ask which good governance is being referred to: that of the reactionary GPH or that of the revolutionary People’s Democratic Government?

Yet, in the NDF’s 1990 agenda for the peace talks (though this was before the 1992 split in the CPP, after which the “reaffirmed” line became harder), there were in fact talking points for electoral and military reforms. These included electoral reforms allowing a fair chance for parties of the lower and middle classes, and also mechanisms to ensure fair and free elections.

¹¹ Human Development Network (HDN), *Philippine Human Development Report 2005: Peace, Human Security and Human Development in the Philippines* (Quezon City: Human Development Network [HDN], 2005) 51.

For military reforms, there were removal of U.S control over the Armed Forces of the Philippines (AFP), and the reorganization, reorientation and reduction of the AFP.

Off-hand, there appear to be more mismatches than matches between the NDFP and GPH sides of the reform agenda. Among the listed *electoral reforms* in the *GRP (GPH) 2003 Draft Final Peace Accord* are: amended party-list, local sectorial representation, anti-dynasty, anti-turncoats, strengthened multi-party system, political finance regulation, full automation, and Comelec reform. *The security sector reforms* include: civilian supremacy measures (such as civil society participation in national security policy making) and a compact, efficient, responsive and modern AFP engaged in non-combat roles for nation building.

Electoral reforms are currently of particularly relevance in view of the just concluded 2013 mid-term national and local elections, and the scheduled barangay elections later this year. The recent decision by the Supreme Court in the *Atong Paglaum* case on the party-list system will have implications on the electoral chances of party-list groups representing marginalized and underrepresented sectors, including those that are the traditional mass base of the Left.

On the other hand, the regular election campaign have rather become occasions for the CPP-NPA-NDFP to assert its underground governmental authority over election campaigning in its claimed territories, with adverse implications for fair and free elections, if not the freedom of suffrage itself. It may be, thus, fair to ask the CPP-NPA-NDFP whether its “permit to campaign” policy and practice is also subject to electoral reform through the peace talks.

As for socio-economic related reforms, we already mentioned above that the previous work and drafts on a Comprehensive Agreement on Socio-Economic Reforms (CASER) need not be laid to waste as these can probably still be made use of but possibly *reframed* under a RBA though not necessarily in comprehensive agreement form.

Following the model of focusing first on a few choice issues of particular importance, given a limited time frame like three years, land reform should be the obvious socio-economic issue to focus on. This may as well be a third key reform area, along with electoral reform and SSR. In CPP-

NPA-NDFP theory, the land problem of the peasantry is the main issue of the national-democratic revolution, and that has to be because the peasantry is the main force of this revolution. This armed revolution's crucial spearhead, the NPA, is a mainly peasant army and one of its key tasks is revolutionary land reform. To what extent can the peasant gains of revolutionary land reform be recognized and preserved as legitimate or legitimized land reform?

But of course revolutionary land reform is not the only progressive land reform initiative.

Going back to the RBA, there are agrarian reform workers outside the peace talks who are pushing for "rights-based asset (land) reform, founded on the idea of social justice" given the even more limited time frame (until June 2014) of the government's extended Comprehensive Agrarian Reform Program (CARP) to distribute over one million hectares of "CARP-able" private landholdings. There is, therefore, a sense of urgency for this asset reform to be implemented that, somehow, parallels *the need for a similar* sense of urgency on the GPH-NDFP front (while there is already such a sense of urgency on the GPH-MILF peace front) during the last three years of the Aquino administration. "In the final analysis, any effort to advance political reforms, no matter how eloquently stated, will become pure lip service in absence of an effective asset reform program¹²".

It may thus be fair to also ask the CPP-NPA-NDFP whether these efforts and gains of other progressive land reform initiatives, such as those in the Bondoc Peninsula, can be respected instead of impeded for being necessarily political rivals in land reform or in serving the peasantry. Can these initiatives, or some aspects of them, be the subject of local-level talks in Bondoc Peninsula?

The breaking news of a breakthrough interim agreement on land reform and rural development in the Colombian peace process validates this as a key reform area that can become a crucial stepping-stone for the whole peace process. This is relevant because of the essential similarities between the Colombian and Philippine societies and revolutions; both led by foundationally Marxist-Leninist vanguard parties. It is also just as well timely that there has in the past few years been a quiet Philippines-Colombia civil society peace advocacy exchange program under the

¹² Joseph Jadway D. Marasigan, "Wanted: rights-based asset reform," *Philippine Daily Inquirer*, February 15, 2013, p. A14. He chairs the Quezon Association for Rural Development and Democratization Services, Inc. (QARDDS).

auspices of Conciliation Resources, which is an international NGO member of the International Contact Group (ICG) supporting the GPH-MILF peace process. Could an NDFP-FARC peace process exchange program perhaps also be developed?

One important angle with all these three key reform areas – electoral reform, SSR, and land reform -- is that there are several relevant on-going civil society as well as academe-based reform initiatives and policy study and research groups in each of these key reform areas, just like on HR-IHL concerns, which can also be engaged in order to move the peace process forward.

3. Pay more, and proper, attention to the “smaller” peace processes

In the Filipino context the peace processes between the GPH and the NDFP, between the GPH and the MILF and between the GPH and the MNLF have been acknowledged as “big peace processes” due to the size of the armed groups involved, the geographical areas covered and the issues involved. It is natural that the attention of the GPH focuses greatly on those, rather than on what we could call, in comparison, the “small peace processes”, involving smaller armed groups such as the Cordillera People’s Liberation Army (CPLA), the Rebolusyonaryong Partidong Manggagawang Pilipinas (RPM-P) and the Rebolusyonaryong Partidong Manggagawang Mindanao (RPM-M).

The likely extended break in the GPH-NDFP peace talks during the three remaining years of the Aquino administration should be taken as an opportunity to get back to the small peace processes. In general terms, there are two reasons for this:

- (1) If things are not moving in the big and more difficult peace processes, why not go for what can move and get done in the small and presumably easier peace processes?
- (2) If you cannot do well in the small peace processes, how much more in the big peace processes?

The CPLA, RPM-P and RPM-M are all relevant to the NDFP since they originated as breakaway factions that had split due to differing views on society, political programs, strategy and tactics – which are also all relevant to the peace process.

Because of its innovative community-based approach the most promising among these other, smaller, peace processes, appears to be the one with the RPM-M. What is significant about the small peace process with the RPM-M is its effective combination of peace negotiations and public consultations.

It has a radically different approach from that of the big top-level peace negotiations in that it does not involve complex peace negotiations. Rather, a local peace and development agenda that will have an immediate impact on the ground will be formulated by the concerned communities and tribes in Mindanao through participatory local consultations to identify problems and needs as well as responses, which could take the form of projects. Such empowered and sustainable communities are the real foundation of peace. The process itself will allow these communities to win small victories and build peace by themselves. The final political settlement is important, but the communities need not wait for this. Building peace for them is here and now. This community-level process continues to be pursued independent of the panel-level talks, and despite the latter's delay. Still, the RPM-M peace process is also getting back on the latter track, which is still needed for a final resolution to the conflict¹³.

If there is a need for models of authentic dialogue with the communities, here is one in Mindanao, which also has the merit of upholding the equal importance of peace negotiations with armed groups. If the idea is to bring the peace talks back to the public, a potential exists here for developing an effective combination of public consultations and peace negotiations, pursuant to the relatively new strategy of public participation in peace making. The RPM-M articulates this idea in the following way: "A community-based and people-centred peace negotiation among revolutionary groups with the government should be an insurance for achieving a sustained and genuine political settlement. The people should be seen as active participants and as the principal stakeholders in any political settlement between the revolutionary groups and the government. And hence, the participation of the masses and the corresponding development of the political consciousness in all levels (and in all stages) of the peace process would ensure the substantive democratic content¹⁴".

¹³ Kaloy Manlupig, "GRP-RPM-M: The Other Peace Process," accessible at www.balaymindanaw.org/bmfi/essays/2004/grp-rpmm.html Kaloy Manlupig heads the NGO *Balay Mindanaw*, which serves as the independent secretariat for the GPH-RPM-M talks, another unconventional feature of this process.

¹⁴ Ike de los Reyes, "The Bangsamoro Question [and the Bangsamoro Juridical Entity] in the Current Situation" (manuscript, November 2008).

Active and even direct participation of the people and communities in the peace process does not make the revolutionary groups superfluous because the latter, as the RPM-M says, are also “included as among the legitimate stakeholders” and should not be isolated from their respective mass bases or constituencies¹⁵. In addition, there is the pertinent analysis and approaches that these groups may contribute to the mutual problem solving that is the essence of peace negotiations. In the case of the RPM-M, it has adopted a multi-form struggle, but gives paramount importance to peacebuilding and development work because of the adverse effect of the war on the tri-peoples of Mindanao.

At some point too, a convergence must be found among the several peace processes relevant to Mindanao, starting of course with those involving the MILF and the MNLF, but eventually co-relating on common aspects with the peace processes on the Communist front, whether on the minimum matter of “addressing concerns arising from the continuing armed hostilities” or on more substantive issues like the *Lumad* Question (because of the RPM-M’s Mindanao tri-people orientation, there is a good prospect for the panel-level talks becoming a vehicle for *Lumad* concerns that can check-and-balance).

Thus, GPH-RPM-M peace process, which has been referred to as “the other peace process” (presumably in relation to either the one with the NDFP, or with the MILF) deserves some special attention before the closing of the Aquino administration. Unfortunately, on the contrary, the Office of the Presidential Adviser on the Peace Process (OPAPP) has for some unclear reason, downgraded this process and placed it out of its list of peace processes with armed groups. *The OPAPP should rectify this error and reinstate the peace process with the RPM-M back into its horizon.* On the other hand, the RPM-M would do good to send “formal notice” of its readiness to resume, so that there are no excuses or misreading of signals.

Perhaps, it is just as well that the peace process with the RPM-M has been unceremoniously suspended (God forbid that it was discontinued) before it might have gone into similar closure mode. As we said at the outset, albeit in the context of the GPH-NDFP peace negotiations, sometimes a break, or an extended vacation, from negotiations can be salutary, IF it

¹⁵ RPMM Peace Committee, “Position Paper of the RPMM-RPA on the Demobilization, Disarmament, Reintegration/ Rehabilitation Framework of the Government of the Republic of the Philippines vis-à-vis Peace Talks” (September 6, 2008).

becomes an occasion for all concerned to take serious pause and rethink things. This pause taking and rethinking becomes all the more imperative when seeking a “new approach” as regards the GPH-NDFP peace front.

This search is of concern not just to one or both of the Parties but ultimately to all those who have a stake in the resolution of the armed conflict, under a favourable climate for peace negotiations, leading to the attainment of a just and lasting peace.

Amen.

THE LAW ON THE USE OF LANDMINES AND THE CASE OF THE NPA

Naga City, June 10, 2013

In the wake of last May 27, 2013 New People's Army (NPA) use of a landmine in the ambush of police Special Action Force (SAF) elements in Allacapan, Cagayan, which resulted in eight of them being killed, presidential deputy spokesperson Atty. Abigail Valte was quoted at a Malacañang press briefing as saying: "It's very clear. It was against the law on the use of landmines". It is therefore relevant and worthwhile to look into this law.

Indeed, and as articulated by Cicero, it used to be the wisdom of the ages that *Silent leges inter arma* ("The laws are silent in the midst of arms"). However, war has also prompted *Inter Arma Caritas* ("In War, Charity"), and, therefore, we find International Humanitarian Law (IHL), or the law of armed conflict (which protects its victims and limits its methods and means) among the best that has been created by humanity in terms of law. If war cannot be avoided because of, say, the failure of a peace process, then the next best thing is to "humanize" it or mitigate its adverse effects on the civilian population. "Even war has limits".

Typology of Landmines

Before we go into the law on the use of landmines and the case of the NPA, particularly it regards to the recent Allacapan ambush it is essential to point out the different types of landmines, as these have bearing on the applicable IHL.

Landmines are munitions or explosive weapons, normally encased, and designed to be placed under, on, or near, the ground or other surface area (like a road) and to be exploded by the presence, proximity or contact of a person or a vehicle. The explosive blast with accompanying shrapnel or other projectiles is meant to kill or maim (especially to take out the legs of) walking persons, or to blow up, disable and destroy moving vehicles, usually also causing death or injury to those aboard them.

The typology of landmines that we emphasize here is of course not the only existing one (there are military and technological typologies), but this is the most important one for purposes of the law. Our key typology has to do with two features:

A. According to intended target: whether personnel or vehicles:

1. Anti-personnel mine (APM) – with a *relatively* small explosive charge, given the intended target.
2. Anti-vehicle mine (AVM) – with a big explosive charge, given the intended target.

B. According to mode of triggering: whether by the victim or by command:

1. Victim-activated – caused by the victim’s weight, pressure, or tripping of a wire, *thus inherently indiscriminate*.
2. Command-detonated – requiring a person to be present, observing the landmine emplacement and manually detonating it, usually electrically, upon the approach of a moving target close to the emplacement

A third, though less legally important, feature may be presented as follows:

C. According to production process: whether manufactured or improvised:

1. Conventional (industrially manufactured) – subject to production standards.
2. Improvised (“home-made”) – not subject to industrial-type standards.

Based on field findings, most, if not all, NPA landmines used and recovered are command-detonated and improvised. The NPA has in its arsenal, and uses, both APMs and AVMs. Its APMs are typically improvised command-detonated Claymore-type mines, which are modelled after the U.S.-designed Claymore directional mine M18A1 with a concave-shaped casing with: “Front toward enemy”. A very recent field verification mission in Compostela Valley, Mindanao, by the non-governmental Philippine Campaign to Ban Landmines (PCBL) and its international humanitarian mine action partner Swiss Foundation for Mine Action (FSD, *Fondation Suisse de Deminage*) has found dual-purpose AP/AV mines of the NPA. The NPA has sometimes in the recent past referred to its landmines collectively as “command-detonated explosives” (CODEX or CDX).

The Allacapan Ambush

From the available media reported facts it appears that the a 30-member unit of the NPA's Danilo Ben Command in Western Cagayan detonated an improvised command-detonated anti-vehicle mine (AVM) at a marked Philippine National Police (PNP) Isuzu Elf van with 15 police elements on board belonging to the 24th Special Action Company of the SAF at around 8:30 a.m. The landmine blast was followed by automatic rifle fire from an elevated portion of the roadside. This procedure has been a *NPA ambush tactic trademark* for a good number of years already.

The landmine was placed in the middle of the road at the boundary of barangays Cataran and Centro West, about 2 kilometres from the Allacapan police station. It was set off using a 25-meter detonation cord (or electrical cable) as the police truck came. The blast was so powerful that it completely destroyed the truck and mangled the victims' bodies, as a photograph of the scene showed. The policemen defended themselves, but eight of them were killed, while seven others who fought back were wounded, including by shrapnel. There were no reported civilian casualties. According to the police, the armed group members made off with four special operations assault rifles, one M-16 assault rifle and seven short firearms before fleeing to a mountainous village. They have claimed to take away 15 rifles and pistols from the ambush site.

Other circumstances that have been noted include: that the SAF team was not on patrol operations when they were ambushed; that they were on their way to Allacapan town proper to see a PNP medical team to undergo electrocardiogram procedure; and that they were wearing not combat fatigues but police athletic uniforms of t-shirts and shorts. They had, however, been regularly patrolling the area where the ambush took place since they were deployed in Allacapan from Abra province in January.

This "statement of the facts" is based on media reports, which cite mainly police sources. Further relevant facts and circumstances are certain to come up based on whatever available object, forensic, medico-legal, photographic, testimonial and other evidence. Without prejudice to this evidence being made available, it appears though that the key facts on which to apply the law in order to answer the possible violation question at hand have been basically established.

So, let's go now to the applicable law.

The Law on Landmines: International

The law on landmines as far as the Philippines is concerned has what we may consider four components, just like international humanitarian law (IHL) in general as far as the Philippines is concerned, two international components and two national components:

- Customary IHL on landmines – in the nature of generally accepted principles of international law, which are adopted as part of the law of the land.
- Treaty IHL on landmines – Landmine-related treaties ratified by, and therefore binding on, the Philippines.
- National laws implementing IHL and dealing with landmines.
- Special agreements on human rights and IHL, including on landmines, between the Philippine government (GRP before, GPH now) and armed groups, like the National Democratic Front of the Philippines (NDFP), which represents the NPA.

An authoritative three-volume study published in 2005 by the International Committee on the Red Cross (ICRC) on *Customary International Humanitarian Law* states the existence of three specific customary IHL rules on landmines:

- Rule 81—When landmines are used, particular care must be taken to minimize their indiscriminate effects.
- Rule 82 --- A party to the conflict using landmines must record their placement, as far as possible.
- Rule 83-- At the end of active hostilities, a party to the conflict, which has used landmines must remove them, or otherwise render them harmless to civilians, or facilitate their removal.

These rules on the use of landmines are *premised on the type of landmine as being allowable or not banned*. But *customary IHL has itself not yet reached a rule on a banned type of landmine*. In other words, at the customary IHL level, landmines are allowable or legitimate weapons of war, but their use is subject to these three rules, which may be said to be the minimum or “least common denominator” rules on landmine use. It goes without saying that the purpose of these rules is still the basic IHL purpose of civilian protection.

The Philippines has ratified two IHL treaties on landmines, including their respective key norms, standards and undertakings:

1. The 1997 Anti-Personnel Mines Convention (a.k.a. the “Ottawa Treaty”¹⁶):
 - A total ban or prohibition against victim-activated (not command-detonated) APMs, (i.e. a ban on their use, development, production, acquisition, stockpiling, retention and transfer under any circumstances); and
 - An undertaking for the destruction of all such victim-activated APMs.
2. The 1996 Amended Protocol II on Mines, Booby-Traps and Other Devices to the 1980 Conventional Weapons Convention:
 - Prohibition against directing all kinds of landmines and similar explosive devices on civilians or civilian objects in all circumstances;
 - Prohibition against an indiscriminate use of these weapons;
 - Taking all feasible precautions, including effective advance warning, and protective measures when using these weapons, so as to protect civilians or exclude them from the effects of these weapons;
 - Recording and retaining of information on, especially on the location of these weapons; and
 - Clearing, removing or destroying of these weapons without delay after the cessation of active hostilities

So in international law it is clear that only victim-activated anti-personnel mines (APMs) are banned landmines, as provided by the above-said and oft-cited Ottawa Treaty, which governs such landmines. Command-detonated APMs and both, victim-activated, and command detonated anti-vehicle mines (AVMs) are not banned, but only regulated or restricted as legitimate weapons of war. These regulation and restrictions are provided in the above-said 1996 Amended Protocol II and of course the aforesaid customary IHL rules on landmines.

¹⁶ Note: the Ottawa Treaty itself does not use the qualifier “victim-activated” when it mentions APMs but that is the kind of APM subject of the treaty.

The Law on Landmines: National

There is still no specific national law on landmines.

The Philippine Campaign to Ban Landmines (PCBL) has been advocating a “Philippines Landmines Bill” since the 12th Congress (2001-04) but to no avail. Basically this bill seeks to implement both the Ottawa Treaty and the 1996 Amended Protocol II as treaty obligations of the Philippines. It is about time that this long overdue law finally gets passed in the coming 16th Congress (2013-16).

There is a new national law, however, that although does not specifically refer to landmines, might be applicable to certain kinds of landmines: the R.A. No. 9851, or the “Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity” a.k.a. the “IHL Law” (since it was previously known as the “IHL Bill”). Among the “war crimes” defined and penalized in Section 4(c)(25)(iv) thereof is: “Employing means of warfare which are prohibited under international law, such as (...) weapons, projectiles and materials and methods of warfare, which are of the nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict”.

It is reasonable to interpret that quoted provision as Philippine legal characterization of the use of victim-activated APMs, which are totally banned by the Ottawa Treaty, as a “war crime”. R.A. No. 9851 thus improves on the Ottawa Treaty by not only banning victim-activated APMs but also treating their use as no less than a war crime. Of course, armed groups like the NDFP, which place themselves outside the Philippine legal system, do not feel bound by national laws. It is different though when it comes to their special agreements with the government.

Special agreements between governments and armed groups on IHL are actually sanctioned and encouraged by Common Article 3 of the four 1949 Geneva Conventions, which have been the long-time main IHL treaties. Although such special agreements are strictly speaking not laws, as in statutes or legislative acts of Congress, still they may be likened to contracts, which are treated in civil law as “the law between the parties”.

The particular special agreement relevant to landmines is the 1998 GPH-NDFP Comprehensive Agreement on Respect for Human Rights and International

Humanitarian Law (CARHRIHL). Its relevant specific provision on landmines, under its Part III (Respect for Human Rights), Article 2, paragraph 15, reads fully as follows:

“This Agreement seeks to confront, remedy and prevent the most serious human rights violations in terms of civil and political rights, as well as to uphold, protect and promote the full scope of human rights and fundamental freedoms, including:

“15. The right not to be subjected to forced evacuations, food and other forms of economic blockades and indiscriminate bombings, shellings, strafing, gunfire and the use of landmines”.

On the basis of this provision, the GPH asserts: “That the use of landmines is prohibited under the CARHRIHL”, including their use against combatants.

PCBL and this writer think otherwise, that the CARHRIHL does not absolutely prohibit the use of landmines. What is only prohibited under the quoted CARHRIHL provision is the subjection of civilians or non-combatants to the use of landmines. In our view, the quoted CARHRIHL provision should be understood as referring to a right of the civilian population and civilians, not to a right of combatants of both sides. This is the clear context of par. 15 in its enumeration of actions, other than the use of landmines, which civilians should never be subjected to. But combatants are normally subject to say shelling, strafing, gunfire and even the use of landmines, and these are all legitimate acts of war as long as they conform to the rules of war. It would be absurd to exempt combatants from being subjected to such acts, including the use of landmines other than banned landmines.

This interpretation is reinforced by the similar provision under the CARHRIHL’s Part IV (Respect for International Humanitarian Law), Article 4, par. 4, which reads in full as follows: “Civilian population and civilians shall be treated as such and shall be distinguished from combatants and, together with their property, shall not be the object of attack. They shall likewise be protected against indiscriminate aerial bombardment, strafing, artillery fire, mortar fire, arson, bulldozing and other similar forms of destroying lives and property, from the use of explosives as well as stockpiling near or in their midst, and the use of chemical and biological weapons”.

Actually, the CARHRIHL also makes a connection to relevant human rights and IHL treaties through its Part II, Article 4: “It is understood that the universally

applicable principles and standards of human rights and of international humanitarian law contemplated in this agreement include those embodied in the instruments signed by the Philippines and deemed to be mutually applicable to and acceptable by both parties”.

Because both the GPH and the NDFP have made their respective unilateral declarations of adherence to the Ottawa Treaty, then its key norm of a total ban on victim-activated anti-personnel mines (APMs) can be said to have also been incorporated by indirect reference into the CARHRIHL. Because victim-activated APMs are totally banned by Ottawa Treaty, which both the GPH and the NDFP adhere to, and its key norm can be said to have been incorporated into the CARHRIHL, then even combatants, and not just civilians, have the right not to be subjected to the use of victim-activated APMs. The right can be extended to all other types of landmines as far as civilians are concerned, but not as far as combatants are concerned. Combatants, in the natural course of war and under its current rules, can still be subjected to command-detonated APMs and to all types of anti-vehicle mines (AVMs).

Was the law on landmines violated in the Allacapan Ambush?

The Office of the Presidential Adviser on the Peace Process (OPAPP) condemned the NPA’s use of landmines in the Allacapan Ambush as a “gross violation of R.A. No. 9851, as well as the Ottawa Protocol”. We did not come across any media report of the GPH or the PNP condemning the NPA use of landmines there as a violation of the CARHRIHL, unlike with other, earlier NPA landmines incidents. So, was the law on landmines, in its several forms, violated in the Allacapan Ambush?

Given that the NPA landmine used in the Allacapan Ambush was not only anti-vehicle but also command-detonated, we can outright eliminate the Ottawa Treaty as a term of reference, because this covers only anti-personnel mines that are victim-activated.

As for R.A. 9851, as discussed above, because of its reference to “Employing means of warfare which are prohibited under international law” as a “war crime”, it also connects to the Ottawa Treaty which totally bans victim-activated APMs. Command-detonated APMs and both victim-activated and command detonated AVMs (like that used in the Allacapan Ambush) are not yet similarly banned. And so, R.A. 9851 can be eliminated as a term of reference in answering our question at hand.

Predictably, this is how NDFP Negotiating Panel Chairperson Luis Jalandoni views R.A. 9851: “The reference to the GPH Republic Act 9851, signed by the Gloria Arroyo regime on 11 December 2009 is not relevant. It does not bind the revolutionary movement and cannot supersede any provision of the Ottawa Treaty, which allows the use of command-detonated land mines”. But it is not correct to say that: “The Ottawa Treaty (...) allows the use of command-detonated land mines”. What is correct to say is that the Ottawa Treaty does not disallow command-detonated landmines, as in the first place this is not the subject of the Ottawa Treaty, its subject being only victim-activated APMs.

Since there appear to be no civilian casualties in the Allacapan Ambush that might indicate indiscriminate use of the NPA landmine, or their failure to take all feasible precautions, and since there do not appear to be any other NPA landmine emplacements left behind because these were not removed by the retreating NPA unit, then there do not appear to be violations of the above-discussed customary IHL rules on landmines and of the 1996 Amended Protocol II which both govern the use of allowable landmines.

This leaves CARHRIHL as a possible term of reference for the question at hand.

If you ask the GPH, they will say the NPA violated what they interpret as the CARHRIHL’s absolute prohibition against the use of landmines, including against combatants. We think that there appears to be no violation because no civilians were subjected to the use of landmines, which is to us the reasonable or correct interpretation of the relevant CARHRIHL provision.

Deputy presidential spokesperson Attorney Valte points to the ambushed policemen being in “athletic uniform”, not in combat fatigue, as they were on their way for a medical check-up (a police spokesperson added that they were not on patrol operations), *as if to say that they were not legitimate military targets for the NPA*. This is no longer a landmines issue but a more basic IHL issue of whether or not the policemen were combatants in the armed conflict between the GPH and the NDFP. In our view, those circumstances cited by Attorney Valte do not change the essentially combatant character of the ambushed police SAF elements as regular members of the armed forces (used as a generic term, not limited to the Armed Forces of the Philippines) of the GPH. These SAF elements have combat duties as the regular mobile force of the PNP often deployed for counter-insurgency (COIN) or internal security operations (ISO). As such, they can be said to be legitimate military targets of the NPA under IHL or the rules of war.

In the incident the ambushed SAF elements were well armed with assault rifles and some of them managed to defend themselves and fight back, presumably with their firearms. They had previously been regularly patrolling the area where the ambush took place since they were deployed in Allacapan last January. Patrol duties are considered direct participation in hostilities. In other words, they were not PNP personnel without combat duties. Their marked PNP vehicle, which is presumably used for regularly patrolling the area, is also a legitimate military objective.

Legally and Militarily Correct, But Not Necessarily So Politically and Morally

Having said all of the above, the NPA landmine ambush of police SAF elements in Allacapan last May 27 may have been legally (under IHL) and militarily correct, but this is not necessarily so politically and morally. Indeed, tactical actions on the ground have their political and strategic implications. The NDFP's Jalandoni affirms: "The use of command-detonated land mines deters enemy combatants from encroaching the territory of the people's democratic government and harming the people with impunity". The NPA may have won that Allacapan military engagement, nearly annihilating a 15-man enemy unit and gaining 12-15 firearms, which may allow 12-15 new NPA recruits, while not suffering casualties of its own, but did it win or lose more hearts and minds of the people?

The NPA's Danilo Ben Command (DBC) says that it had acted on behalf of the villagers who had asked for the withdrawal of the SAF unit. Really? As peace advocates elsewhere, particularly from as far as Negros, would say: "not in our name, please!" Can the villagers not be trusted enough, or allowed to effectively wage their own campaign for the withdrawal of the SAF unit if that is really their desire? The DBC says the ambush was intended to compel the SAF to withdraw from Allacapan. Honestly, would such an ambush compel battle-tested special forces to withdraw? Wouldn't such an ambush make them instead dig in and even get reinforcements, as the Philippine Army's 21st Infantry Battalion has in fact already been deployed to help pursue the ambushers? In the end, it might be the NPA withdrawing from Allacapan to evade a military encirclement. And not only because of military pressure but also because of possible local community pressure due to a public backlash.

We have seen some public backlash in the cases of other NPA landmine incidents, notably those involving the "Samar 10" soldiers landmine ambush-killing on

December 14, 2010 and the Maco, Compostela Valley landmine incident with civilian casualties on February 13, 2011. Witness now in Allacapan what Evelyn Pinated, mother of the slain SAF vehicle driver PO2 Elmark Rodney Pinated, understandably says: The “devils” took her son away, and she wants them crushed. “The (NPA) must stop these senseless killings. They are killing those who are serving our people”, she told reporters there. Elmark had married his girlfriend Grace only last October 8. She last talked to him over the cell phone on May 20, her birthday, when he greeted her.

Imagine how that human-interest story is multiplied by the number of relatives, friends and acquaintances of those killed and maimed on all sides, including the NPA and civilians, and not just policemen and soldiers (like also the seven Marines killed in the most recent Abu Sayyaf ambush). Whichever side wins the war in the end, the social fabric would have been gravely torn apart (like a landmine blast does to a human body) and this would then become a drag to any reconstruction.

It will be recalled that during the dark years of the Marcos martial law dictatorship the NPA and/or its supporters used the vernacular term “demonyo” (devil), among others, to refer to their worst enemies, whether these were bad elements in the barrio, brutal soldiers-torturers, or deep penetration agents. How ironic (or karmic?) is that this same term of non-endearment is now being turned around/thrown back at the NPA. Also ironic is how the old NPA Maoist motto “Serve the People” is instead being applied to their adversaries in the uniformed services. Perhaps the NPA should take pause and not simply dismiss this as a distraught grieving mother’s ranting. The DBC had to add insult to injury when it told the families of the slain policemen that: “Your relatives were instruments of the current [Aquino] administration”.

And that was part of DBC spokesperson, Crispin Apolinario’s May 29 statement written in Filipino (translated by media): “Send(ing) its apologies to the families who lost their loved ones in the engagement (...). We are saddened by the deaths, but this is part of our conflict (...)”. Notwithstanding that it did not appear to violate IHL, including the law on the use of landmines, the DBC still saw it fit to apologize. What impelled this? Was it a sense that something was wrong somewhere? One does not normally apologize if no wrong was done.

It has been noted particularly by some Negros peace advocates that the NPA has lately been proffering apologies for such incidents, especially where civilians have been killed in the crossfire, or otherwise of its intensified tactical

offensives, like the La Castellana (Negros Occidental) Massacre, or Incident of January 27, 2013, and the Mrs. Ruth Guingona convoy ambush in Alatan, Misamis Oriental on April, 20 2013. Said one particularly indignant peace and human rights advocate, local columnist Benedicto Q. Sanchez of *Sun Star-Bacolod*: “Their magic formula of absolving themselves of criminal culpability is by way of apologies to the families of their victims, offer of indemnification and investigation of their ranks, and then castigating the military for failing to own up to its ‘blood debts’”. “Sorry” seems no longer to be the hardest word. But words are cheap.

To go back a bit more to law before we end, particularly to IHL, one of its fundamental principles is referred to as the De Martens Clause, what might be called a “fall back” principle, taken from the preamble of the 1907 Hague Convention IV on the laws and customs of war on land: “in cases not covered by the Regulations (...) the inhabitants and belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience”. Note not only civilized usages and a sense of humanity but also the public conscience (thus, the bar of public opinion to some extent) as guides or “fall backs” in the absence of specific rules in situations of armed conflict. Incidentally, the Ottawa Treaty itself, in its prefatory clauses, credits the dictates of the global public conscience as an impetus for an international treaty totally banning victim-activated anti-personnel mines.

In the current situation of terminated peace talks and intensified armed conflict it may be legally (under IHL) and militarily correct for the NPA to continue to use its command-detonated landmines, but it should also study well the impact of all these explosions on its political capital and moral ascendancy. If the NDFP reaffirms, as it says it does, The Hague Joint Declaration of 1992, particularly its paragraph 5.a. on “Specific measures of goodwill and confidence building to create a favourable climate for peace negotiations,” that it says it wants resumed, then something like a moratorium or a calibrated reduction on the NPA use of command-detonated landmines might be reciprocated by something just as significant (say a moratorium or calibrated reduction on the AFP use of artillery fire and/or air strikes) on the GPH side, both with a view to some forward movement in the peace process that both parties still avow commitment to.

But again, words are cheap.

Concrete positive deeds would speak much louder. Hopefully louder than the landmine, artillery shell and aerial bomb explosions. Instead of an eye for an eye, how about a moratorium on the use of one kind of explosive device in exchange for a moratorium on the use of another kind of explosive device?

We dare both sides to accept this challenge on a relatively “small matter” of weapons use, since they cannot seem to accept the bigger challenges of serious substantive peace talks and an accompanying negotiating climate-changing ceasefire.



OF FALLEN REBELS AND SOLDIERS: ONE TOO MANY, MUST THIS GO ON?

Naga City, July 22, 2013

The four decades-old on-going insurgency and counter-insurgency war on the Communist front once again came closer to home, though a bit quietly, in Naga City this July 2013 when a simple memorial mass was held in the Ateneo de Naga University (AdeNU) chapel for Frankie Joe Soriano and Ted Palacio, two of its former college students who were among eight communist rebels killed in an early morning raid by a Philippine Army unit on July 4, 2013 in the hinterlands of barangay Upper Camalayan, Juban, Sorsogon.

What made this encounter more noteworthy than usual was that the 40-year old Frankie Joe Soriano happened to be the popularly known “Ka Greg Bañares”, spokesperson of the National Democratic Front of the Philippines (NDFP)-Bicol, the long-time voice, if not face, of the communist insurgency in this region, a long-time stronghold of the New People’s Army (NPA). The NDFP-Bicol, in a long statement with mini-biographies of the eight rebels killed, claims Soriano to be no less than a member of the Bicol Regional Party Committee of the Communist Party of the Philippines (CPP). There were also other “big fish” among the eight, no less than four “Red commanders” of the Celso Minguez Command, the NPA’s Sorsogon Provincial Command, with one of the four also a member of the Sorsogon Provincial Party Committee of the CPP.

Palacio (“Ka Gary”), whose body was found close to that of Soriano, was apparently a close aide of the latter, likely in NDFP-Bicol information and propaganda work. As was the 37 years old Christine Puche (“KaNel”) whose body was found also close to the two. The three were apparently retreating away from the main group engaged in a fire fight with the raiding Army unit when they were felled by a blocking force from that unit. Puche happened to be the wife of Soriano. She was also a former college student, this time of the University of the Philippines (UP) College of Mass Communications. She hailed from Legazpi City in Albay, while Soriano hailed from Libmanan, and Palacio hailed from Naga City, both in Camarines Sur. Their lives and deaths span the main or most prominent provinces of the Bicol region. They are now part of Bicol revolutionary folklore.

Blasts from the Past Brought to the Present: Something Touched Us Deep Inside

The battle deaths of Soriano, Puche and Palacio came with a little degree of closeness to my wife AdeNU Professor Paz Verdades M. Santos (“Doods”) and myself in Naga because we, Doods more than me, had met all three of them on several instances. She of course knew Soriano and Palacio from their AdeN college days in the late 1980s to the early 1990s, as a moderator of *Kapatirang Plebeians* and of the student paper *Pillars*, but did not know them that closely, especially Soriano who was then a “totoy” (like a little boy) of that progressive campus fraternity. Doods and I got to meet with Soriano and Puche, or shall we say “Ka Greg” and “KaNel,” up closer and personal when we did a book research interview of “Ka Greg” as NDFP-Bicol spokesperson in June 2006 in an NPA guerrilla zone somewhere in Bula, Camarines Sur. He was one of the key informants for the Chapter 2 case study on NPA-Bicol, which Doods wrote for our co-authored internationally published 2010 book *“Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines”*.

The funny thing is that, during the book research interview, Doods did not recognize “Ka Greg Bañares” to be Frankie Joe Soriano, and we in fact learned of the true identities of “Ka Greg” and “KaNel” only from the CPP-NPA-NDFP website statements on the eight fallen rebels of the Juban Incident. Aside from the passage of 13 years since Soriano graduated A.B. Philosophy from AdeNU in 1993, Doods simply could not connect the mature, personable, confident, well-informed and articulate “Ka Greg” with the same little quiet “totoy” Frankie in the margins of the *Plebeians* of those AdeNU college days. He showed a thirst for learning, especially about international law (my field), and an interest in Bicol literature (Doods’ field), with a confidence to do such writing himself. And he also showed concern for our personal needs the overnight we spent in a peasant’s hilltop house with a NPA squad as security detail. He took particular attention in calming down his former *Plebeians* moderator Ma’am when she got palpably nervous about a relayed report during the following morning that an Army unit was patrolling some distance from the house.

During the interview, “KaNel” keenly followed the discussion and spoke well, giving her own take on things. Doods noted her being very caring and proud of “Ka Greg,” thus surmising they were spouses without their telling us. She talked a bit to Doods about their children, as women usually do, but she seemed to be more security conscious than “Ka Greg” in revealing aspects of her person. We would learn only from accounts of mutual AdeNU friends after their deaths

that both their two children, now aged 13 and 9, were “children with special needs”; and that Doods and Christine Puche happened to both be journalism graduates of UP MasCom, albeit nearly two decades apart.

What was clear to both of us was their strong commitment; their dedication to the cause. For me in particular, they typified perhaps “the best and the brightest” among the sons and daughters of the revolution they represented; that cadres like them were that revolution’s best assets, which gave it some fighting chance to win despite the odds it faced. They were easy to talk, discuss and even argue with. They were certainly not of the heavy “grim and determined” mien. Though death was surely a normal danger, in fact a normal occurrence they fully accepted as part of the path of revolutionary armed struggle which they had knowingly and whole-heartedly chosen, still the very violent deaths in the prime of their lives of these persons we have had the chance to meet, talk and touch base with, even if just for less than the length of a day, shocked us and something touched us deep inside the day we learned they had died.

A Chronicle of Deaths Retold; A Series of Unfortunate Homecomings

There are many feelings and thoughts about the deaths (and lives) of Frankie, Christine and Ted as well as the aftermath of this. To be sure, these things can be viewed at several levels and of course also from different perspectives. Most starkly different, in fact conflicting, as may be expected, are the rebel and anti-rebel perspectives: one side saying “Parangalan... Pamarisansila!” (honour them and make an example of them) and the other side in effect saying “Huwagtularan!” (don’t follow their example), or even “Butingasakanila... Durugin pa ang mgayan! (Good for them... crush them further)”.

As regards the Juban Incident itself, there are legitimate questions, in particular about the kinds of bullet wounds, especially head wounds, found on the dead bodies of the eight killed, as may indicate that they finished off at close range while already incapacitated by their initial wounds, but still alive and thus entitled to medical aid, in violation of the rules of war.

The memorial mass at AdeNU chapel for Frankie and Ted was not also without some controversy. This time it was not about the employment of revolutionary messages, flags and other symbols during such an occasion, or during a wake, as was the case for Christine in her Legazpi hometown. This time it was about the surprisingly rather conservative restrictions that the school administration

imposed on the memorial mass. One local newspaper columnist who happens to be a senior AdeNU alumnus commented: “Here are two former Ateneans going back to their alma mater for the last time, yet the same alma mater, which taught them to be ‘men for others’ at whatever cost, had put some restrictions on how their stories should be told (...). Why treat Ateneans-turned-rebels differently?”

Frankie’s and Ted’s broken bodies were no longer brought for the AdeNU memorial mass. But in at least one previous instance, the body of an Atenista rebel even “laid in state” at the old AdeNU chapel. This was former AdeNU student government president 32-year old Jemino Balaquiao who was killed in 1992. An old beloved Jesuit priest, since passed away, even said then that Balaquiao was like national hero Rizal because he died for his country. My own close encounter with him was nothing political, just playing “tatlukan” basketball at one of the then outdoor AdeNU basketball courts when Doods and I were still renting in the Ateneo Avenue area in the early 1980s.

And so, Frankie and Ted’s memorial mass at AdeNU chapel seemed like just part, the latest, of a chronicle of Naga school boys turned rebels, getting killed as such in some far-flung countryside barrio, and finally coming home to a memorial mass in the good old school of their earlier youth. A story told and retold.

My first Naga homecoming of this kind was for one who was closest to me among those honourable schoolboys in terms of generation of schooling as well as of activism (my elementary Naga Parochial School, high school, Philippine Science High School, and early 1970s college UP, 28-year old classmate Alexander Belone II, who was killed as a rebel in 1980 in far-flung Balatan, Camarines (where I now happen to be the acting municipal judge). But the circumstance of his dead body’s desecration there became an issue that the then leading Naga newspaper Balalong editorialized as “an outrage embarrassing to any civilized society”. In the recent Juban Incident, there was some kind of reprise of this issue, albeit of what appears to be a different kind of violation of civilized conduct.

The latest Naga homecoming of the above-said sort, the one for Frankie and Ted, just struck me/us as one too many in the chronicle of deaths retold, in the series of unfortunate homecomings. Must this go on?

It is not hard to imagine how many times this sort of homecoming is multiplied in other hometowns, not just Naga, and not just for fallen rebels but also for fallen soldiers, some of the latter also “the best and the brightest” of their

generation from North to South of this country. Someone's son, brother, husband, other relative, friend, boyfriend, classmate, frat brood, org-mate, neighbour, town mate or other acquaintance – it could be a fallen soldier just as well as a fallen rebel.

The Rebel in Literature

Part of Naga's urban legend is the true story of the Ateneo Avenue apartment final shoot out between the cornered, recuperating, earlier wounded 26-year old NPA "Kumander Tangkad" (Romulo Jallores) and the pursuing, younger Philippine Constabulary (PC) Lt. Segundino Agahan towards the end of 1971, no less than Rizal Day, wherein both were killed. Here it was the soldier who was reportedly the Atenista, albeit an alumnus of Ateneo de San Pablo, while the rebel was an alumnus of another Catholic school, the Sta. Clara Academy in his rural hometown of Tigaon, Camarines Sur – the birthplace of the CPP and NPA in Bicol in the late 1960s and early 1970s.

In literature, at least Philippine and Bicol literature, according to my literature professor wife, it is the rebel more than the soldier that is a favourite subject or character, the *bida* (hero), with the soldier often the *contrabida* (villain). This is because it is the rebel who cuts the romantic figure, aside from the lasting impact of the Philippine Revolution against Spain in the national historical consciousness. My wife likens this to the "heroic outlaw" in Irish folk literature which character has "innocent beginnings."

And so, "Kumander Tangkad"/Romulo Jallores is featured in two books of life-and-death stories of Bicol martyrs (recall the *Quince Martires* of 1896, whose monument is in Naga) of the post-1970 revolutionary left (the 1997 NGO publication *Pulang Hamtik* - "Red Ants" -, and the 2008 underground publication *Pa-iraya: Sa Pagserbisa Masa* - "Going Upstream: To Serve the Masses" -). As the first NPA commander in Bicol, it is after Romulo Jallores whom the NPA Regional Command is named. There are also stories of Belone and Balaquiao in *Pulang Hamtik*.

The Fallen Soldiers Have Their Stories Too

But the fallen soldiers have their stories too. Take that of PO2 Elmark Rodney Pinated, one of (also) eight police Special Action Force (SAF) elements killed in a landmine-initiated ambush by a unit of the NPA Danilo Ben Command (DBC) last May 27, 2013 in Allacapan, Cagayan. His mother Evelyn Pinated was reported in the media to have said, "The (NPA) must stop these senseless

killings. They are killing those who are serving our people". She told reporters that Elmark had married his girlfriend Grace only last October 8. She last talked to him over the cellphone on May 20, her birthday, when he greeted her.

Take the 2011 Philippine Military Academy (PMA) graduate 26-year old 2nd Lt. Alfredo Lorin IV of Iriga City (not too far from Naga, and also in Camarines Sur), the leader of a seven-man team on a test mission for the Marine Force Reconnaissance Battalion who were all killed in a clash with an Abu Sayyaf faction last May 25 2013 in Patikul, Sulu. According to media reports, his elder sister Rosalyn Lorin said: "He's more like a father to us. (...). He was a very responsible son and brother. He was also a super gentleman. He was my defender every time I faced difficulties in life. He would call or send us messages whenever possible. He always sent us 'good morning' messages and biblical passages". His salary went to our mother and he made sure that our parents were all right while he was away. We are very poor. His dream was to have a good job and build a decent home for my parents". Most significantly, Rosalyn said of her brother Alfredo, "Limboy": "He died with bravery so we will [accept his death] with bravery. He's our inspiration and we will always remember his courage (...). Maybe that's the only task given to him by God – the task to touch everyone's hearts and to remind us that life is precious and we need to strive harder".

The 19 Army Special Forces soldiers killed by a Base Command unit of the Moro Islamic Liberation Front (MILF) on October 18, 2011 in Al-Barka, Basilan were remembered including the 27-year old 2nd Lt. Jose Delfin Khe (remembered by his aunt Kleng Estenor, his younger brother 2nd Lt. Erren Khe, and his fiancée Jane Frances Madarang); the 33-year old Cpl. Roderick Cabucana, (remembered by his wife Ginalyn Cabucana); and the 24-year old Pfc. Mark Ted Quiban (remembered by his cousin Marichie Quiban). 2nd Lt. Jose Delfin Khe and Pfc. Roberto Recafranka were in particular lauded as heroes by their comrades-in-arms who survived the carnage because they offered their lives so that others would live by deciding to face the rebels to allowing others to safely withdraw. But, do you know what, this is the kind of story of comradely heroism that is often told and retold on the rebel side too, the NPA even more than the MILF.

A Question of Heroes

It seems heroism is relative or, perhaps more precisely, partisan. And those who consider either fallen rebels or fallen soldiers as heroes will always find ways of honouring them. The fallen soldiers are usually, if not always, given military honours and burial rites, often at the Libingan ng mga Bayani ("Cemetery of Heroes"). But one does not see in the Philippines the general respect and honour for living troops as defenders/protectors that one sees in the U.S (honoured especially during featured baseball games). In the Philippine case, our troops have yet to fully recover from the taint of being martial enforcers/oppressors, so as to earn that level of general respect and honour. But perhaps, the times they are a-changin'.

Take the eight policemen of the Catarman Municipal Police Station killed in a NPA landmine-initiated ambush on August 21, 2010 in the capital town of Catarman, Northern Samar. Among them was no less than the station's deputy chief of police, Senior Insp. Nicasio Lavapie San Antonio of Buhi, Camarines Sur. As reported in the media, Catarman mourned its slain lawmen. The Mayor said: "They are our heroes. They were killed while they were carrying out their duties as law enforcers". And the seven locals among them were buried there as heroes. San Antonio's body was of course brought for a "homecoming" to his hometown Buhi. Over a thousand persons, including government officials, soldiers, policemen, students and relatives turned out for the funeral of the seven locals. The mourner's joined a two-kilometre funeral march, which served as an indignation rally to protest the policemen's killing. It passed through the town's major streets and took two hours to reach the Catarman public cemetery.

It was in Chinese Communist Party Chairman Mao Zedong's 1944 article "Serve the People," that he stated: "All men must die, but death can vary in its significance". The ancient Chinese writer Szuma Chien said: "Though death befalls all men alike, it may be weightier than Mount Tai or lighter than a feather. To die for the people is weightier than Mount Tai, but to work for the fascists and die for the exploiters and oppressors is lighter than a feather". Later-day Bicol revolutionaries have replaced Mount Tai with Mayon Volcano, Bulusan Volcano or Mount Isarog. Unfortunately, to view the death of soldiers as "lighter than a feather" is to devalue their lives. And of course for both sides to see the other as the "demonyo" is to deny him any saving grace, including his right to life.

An “Eye-for-an Eye” Cycle of Killings, Not Just Quantitative But Also Qualitative

Evelyn Pinated’s desire for revenge (she “wants them crushed”) is a natural emotional feeling for the kind of painful loss of a loved one she had just suffered. Same with Rosaleo Balag, father of the 30-year old “happy-go-lucky” bachelor PO2 Rodel Martires Balag, one of the above-said eight policemen of Catarman killed in a NPA landmine-initiated ambush. One of PO2 Balag’s legs was dismembered due to the landmine blast and his father tried to look for his missing leg at the ambush scene but could not find it. His head, like those of his comrades-in-arms, was shot several times at close range and apparently to finish them off (a scenario reprised in the Juban Incident but this time by the soldiers against the rebels?) So, it was not just their deaths that their loved ones had to come to terms with, but also the brutal manner in which they were killed, not to mention that death came too soon for these young men still full of promise (much the same thing too for the other side). Rosaleo understandably could only wish ill for those responsible for the death of his son and his police colleagues.

On the other side of the armed conflict, and going back to the recent Juban Incident main starting point of this article, among the CPP immediate responses was a statement dated on July 6, 2013 stating that: “The CPP and all revolutionary forces vow to exact justice and punish the perpetrators of this massacre. It calls on all units of the NPA to carry out more tactical offensives to defend the people, particularly the peasant masses in Sorsogon and the Bicol region, who are being subjected to more severe violations of human rights as the AFP intensifies its Oplan Bayanihan war of suppression”. Coincidence or (likely) not, that same day, eight (note also eight) soldiers of the 31st Infantry Battalion (the same Army unit involved in the Juban Incident) were killed by the NPA-Sorsogon Celso Minguez Command (CMC) during its “active defence manoeuvres” in Irosin town, according to statements of the CMC and CPP. Whether true or not (it was denied by an Army spokesperson), must this, which amounts to an “eye-for-an-eye” spiral or cycle of killings, go on?

As it is, as of March 2012, according to Ploughshares Research and Action for Peace, as many as 40,000 combat-related deaths in the Philippine armed conflict on the Communist front have been reported since 1969, when the NPA was founded and launched its revolutionary armed struggle under CPP leadership. This is apart from the usually cited figure of 120,000 (civilians and combatants) deaths in the Philippine armed conflict on the Moro front (where

there is, at least, an honest-to-goodness peace process moving forward towards a new and improved comprehensive agreement with the MILF as the emergent representative of the Bangsamoro people's struggle for self-determination). The dynamics of armed conflict often partakes of the nature of scoring body counts and propaganda points against each other. In the process, the number of combat-related deaths just piles up year after year of an armed conflict nearing 45 protracted years.

Those are the cold statistics. And we have given you here just a few of the names and human-interest stories behind those morbid numbers. The analysis of these must really not just be quantitative but also qualitative. In the first place, as we already said, the number of persons killed should be multiplied by the number of their relatives, friends and acquaintances (perhaps further multiplied by the multiplier effect of Facebook, the internet and social as well as mainstream media), as an initial measure of the impact of these killings at the personal level.

And when one side sees the other as the "demonyo" and its best wishes for them are only death wishes, when one side has "blood debts" to the other side, when one side's heroes are the other side's oppressors, when one side's deaths are "weightier than Mayon Volcano" and the other side's deaths are "lighter than a feather," then part of the "State of the Nation" is a broken social fabric that does not bode well for the necessary national unity and even economic revival. Those who envision and speak of a "civil war" in terms of the politico-military balance and status of belligerent forces in armed conflict may not realize it, but there is already a veritable civil war of hearts and minds among the people, between brother and brother. Must this, as well as the bloodletting, go on in order to achieve well-meaning and valid socio-economic and political objectives and programs?

Ends and Costs, Ends and Means

If good, talented, people are our best resource (as human resources should be, for any endeavour, whether it is revolution or governance) then it is a pity that so many of "the best and the brightest" of them are nipped in the bud or prime of their young lives. The laudable ends, including of ultimately ending the exploitation of man by man can no longer justify the human cost. That now includes the precious lives of Frankie, Christine and Ted, among many others.

Although those three would be the first to object to the characterization of their deaths as a waste, most ways one looks at it, what a loss, if not waste, of youth and talent. For us, while their lives certainly may not have been a waste, their deaths were. There was still much that they could do for the country.

Some revolutionaries would say that if Frankie and Christine had not taken the less travelled revolutionary road that they did, then they would be just an ordinary married couple struggling to make ends meet and to raise children as a middle-class family with the usual career and material aspirations. Perhaps yes, perhaps not. This would ultimately depend on their idealism, patriotism and sense of social responsibility. In whatever station or stage in life, one can make his or her contribution in the service of the people, for the betterment of the country, and even for needed radical changes.

For this, there has to be another, less costly way than armed struggle as the main form of struggle. It behoves the revolutionary leadership to seriously consider this, if only because of the mounting human and other costs, but also because of questions of feasibility or effectiveness of the chosen strategy of protracted people's war under current objective and subjective conditions, both national and international. And we are not speaking of surrender, capitulation or co-optation of the national-democratic cause or program. Of course, the state or ruling system must also do its part of the politico-military equation. An honest-to-goodness peace process is one forum to sort this out, including arrangements for the revolutionary Left's viable politico-electoral participation. This entails sincere and serious engagement in peace negotiations as a strategy and not just a tactic on the part of both the CPP-NPA-NDFP and the government.

Sometime back, in the aftermath of Typhoon Sendong in Northern Mindanao in December 2011, Frankie, as NDFP-Bicol spokesperson "Ka Greg Bañares", was quoted in the media as saying: "While the peace negotiation has no clear direction, it is better to go on with the armed struggle". And so it did go on, with Frankie and many others on both sides eventually laying down their lives in this struggle. It behoves the leaders of both sides to give peace negotiations clear direction. Enough with the tactical posturing and manoeuvring. The leaders of both sides owe it to their fallen rebels as well as to fallen soldiers to be as sincere and as serious in peace negotiations as their fallen rebels and fallen soldiers were in the performance of their tasks and duties.

Frankie, Christine and Ted, fallen rebels, as well as the fallen soldiers, may you rest in peace. And may there instead be more of happy homecomings for "the best and the brightest" sons and daughters of the people.

JUDGING THE PROSPECTS FOR PEACE TALKS WITH THE NDFP IN 2015

Naga City, January 21, 2015

The hugely successful visit of Pope Francis, which took the whole country by storm, still reverberates. Will its surging waves of goodwill, as well as calls for prophetic action, carry with it a soon enough resumption of peace talks with the National Democratic Front of the Philippines (NDFP)?

The best recent sign that something is brewing on the NDFP peace front was *Inquirer's* banner headline last December 28: "Joma looks forward to meet with P-Noy". This came right after Jose Maria Sison, Chief Political Consultant of the NDFP, and founding Chairman of the Communist Party of the Philippines (CPP), which leads the New People's Army (NPA), had stated that both parties might resume talks probably soon enough after Pope Francis' visit.

Given the past long track record of more-off-than-on and more-failed-than-successful peace talks, the questions that come to the mind boil down to three:

- [1] What really in terms of peace talks is afoot these remaining one and a half years of the Aquino administration?
- [2] What are the prospects that something good enough, in terms of tangible gains and moving that process forward, will come out of any new talks?
- [3] What needs to be done to push these talks forward?

What peace talks are afoot?

The recent "excitement" on the NDFP side about a possible resumption of talks soon enough appears to be a change from the previous Joma/CPP position of waiting for a new administration to resume peace talks. It was actually the government that took the initiative to explore this through its "private emissaries" or "friends of the peace process" (notably former GPH peace negotiators Rep. Silvestre Bello III and Hernani Braganza) making "informal contact" with the NDFP since July 2014. According to a government source, they are "shuttling back and forth between the two parties to explore possible parameters for restarting talks at the earliest possible time, but nothing is final".

Why this new government initiative?

The Presidential Adviser on the Peace Process Secretary Teresita Quintos-Deles speaks of “President Aquino’s policy to pursue the peace process as a major agenda of his administration”. The peace settlement with the Moro Islamic Liberation Front (MILF) has become the cornerstone, which for President Aquino has taken historical legacy proportions. Former NDFP chief peace negotiator Satur Ocampo sees the new government initiative as President Benigno Aquino III seeking also: “To redeem the unrealized vow that his mother, President Corazon Cojuangco-Aquino, made in 1986 to end the protracted armed conflict between the government and the Left revolutionary forces” through peace negotiations.

If we take what has been the framework agreement for these peace negotiations since 1992 (namely The Hague Joint Declaration), these peace negotiations are being held “to resolve the armed conflict”. The “common goal” is “the attainment of a just and lasting peace”. What does this hold for the ordinary Filipino and for the economy? Both will benefit from the peace dividends. The ordinary folk, especially in the countryside zone of war, can expect to, at least, go on with their day-to-day lives of seeking out a living without getting caught in the crossfire. And needed socio-economic reforms can be instituted as a result of a final political settlement.

Such reforms are ultimately aimed at addressing the root causes of the armed conflict and social unrest. Aside from cutting the considerable human and economic costs of the conflict, a peace settlement would allow much more resources to be devoted instead to socio-economic development that should benefit the country, especially the poor. This is why it is worth trying to give peace a chance.

Why the change from the previous Joma/CPP position of waiting for a new administration to resume peace talks especially on the formal level? Perhaps, aside from its telegraphed tactical considerations, it is really more for the NDFP to prepare some ground for such talks in the next administration. Some observers note that this comes after the March 2014 capture of the in-country CPP leaders Benito and Wilma Tiamzon, who were said to take a harder line than Joma on the peace talks. Joma, to whom the CPP has entrusted the peace talks, now appears to have more room at the CPP to manoeuvre on this front (as shown by recent statements issued under his name in the media) like its recent 46th Anniversary Statement of December 26 believed to have been

drafted by him under the name of the CPP for the guidance of its leadership and entire membership.

Both the government and the NDFP actually agree in that there is not enough time for a final peace agreement or political settlement before the end of President Aquino's term in June 2016. Joma says that: "There is little time left to make all the agreements up to the final peace agreement", but, "I think there is ample time to arrive at a Comprehensive Agreement of Social and Economic Reforms [CASER] and a Truce and Cooperation Agreement on the basis of a general declaration of mutual intent". Senator Antonio Trillanes IV has pointed out that if talks would at all progress, it would be in the next administration where: "There would be a clean slate (...) new personalities and a new beginning". Otherwise, he said, it would result in a half-baked agreement. Besides, the long "election fever" for a new presidential administration, when all serious business stops, will kick in by the second half of 2015 and impinge even on existing peace processes. The government has reportedly decided to give the talks until June 2015 to produce significant results.

What are the prospects of the peace talks?

The question of prospects for significant results actually refers to a phase of new informal talks that, if they actually get underway, could take the whole first half of 2015. This necessarily must have scaled down objectives. From the government, Secretary Deles has stated the following parameters: "We believe that for peace talks to prosper we need to pursue an agenda that is doable and time-bound, with agreements that are realizable within the remaining term of President Aquino. More importantly, peace talks must heed our people's call for an end to violence. We view peace negotiations as the beginning of sincere dialogue towards resolving the problems of the country without resorting to the use of arms".

There is a strong GPH accent on the need to provide people with security and respite from violence. The GPH seeks a long-term truce/ceasefire during the entire process of the peace talks, especially the formal talks, should these resume even before the end of the Aquino administration. There is some ground level and humanitarian basis for a ceasefire, but the GPH pounding on this idea reinforces the CPP's Statement about: "The reactionary government and its current officials who regard the negotiations as the means for the capitulation and pacification of the revolutionary forces and the people". The NDFP will likely reject a ceasefire that it considers too long (that in its perception retards

the primary armed struggle) and is not coupled with substantive achievements in the talks. The thing is, the GPH has not presented its own clear “agenda that is doable and time-bound, with agreements that are realizable within the remaining term of President Aquino”.

Joma at least proposes achieving a CASER and/or a “general declaration of mutual intent” which, if marked by “constructive ambiguity”, can later become another “document of perpetual division between the Parties” as the GPH has already characterized *The Hague Joint Declaration*. This is not helped by the CPP 46th Anniversary Statement which telegraphed a tactical agenda of propaganda that serves its protracted people’s war (PPW) strategy: “What is good about the peace negotiations is that the NDFP is able to broadcast the Program for a People’s Democratic Revolution and help bring about the victory of the revolution in the long run, or before then help bring about truce and cooperation with a government that is not led by the Party but which adopts patriotic and progressive policies to deal with the severe crisis brought about by imperialism and reaction”.

This, and other high-policy guidance in the CPP 46th Anniversary Statement, including priority-numbered “urgent tasks” for “[2] the people’s struggle to oust the Aquino regime”, and to “[3] intensify and advance the people’s war towards the stage of the strategic stalemate [for the umpteenth time] (...) by launching more frequent and sustained tactical offensives with occasional blows to the head of the enemy” reinforces, in turn, the GPH’s current wariness and caution about the prospects of the peace talks; nowhere is the latter set forth in the statement’s summary of ten numbered “urgent tasks.”

In the nearly 25 years (one generation) since *The Hague Joint Declaration*, the only substantive achievement has been the 1998 *Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law* (CARHRIHL), but its implementation has however been stalemated along with the main peace process.

There are many reasons for this lack of progress. At its root are the mutually antagonistic frameworks of the negotiating parties, which treat the peace negotiations as more tactical rather than strategic. This raises nagging questions of sincerity and political will for the talks. The long negative experience on the war and peace fronts, including belligerency both in deeds and in words, with each other has aggravated the “mountain of distrust” between the parties.

What needs to be done to push the peace talks?

Senator Trillanes' point that confidence-building measures should be undertaken before any "P-Noy-Joma meeting" is a well-taken one.

Secretary Deles says: "Professions of sincerity are no longer acceptable to a sceptical public". The Hague Joint Declaration itself points to the need for: "Specific measures of goodwill and confidence-building to create a favourable climate for peace negotiations".

Short of a ceasefire, which would be ideal as a specific measure of goodwill (especially for the non-combatants) but which is a contentious proposition to the NDFP (which treats it for the last stage "end of hostilities"), a purposively rebuilt of the shattered confidence between the parties by a more collaborative, flexible and effective implementation of the spirit and letter of the already achieved CARHRIHL should be doable in the short-term left of the Aquino administration. This would produce tangible results on the ground in terms of addressing concerns arising from continuing armed hostilities (because still there is no ceasefire), ensure the protection of non-combatants, and reduce the impact of the armed conflict on communities in conflict areas. This too is a "path to peace" in general, as well as a bridge to progress for this peace process into the next administration. Then hopefully, enough confidence between the parties would have been rebuilt to take it from there further forward.

The GPH appears to envision that one doable of the new informal talks, which could supposedly set the stage for the formal talks if ever, is to frame a negotiation roadmap. This is already long overdue, given the sense of many that the NDFP peace talks are "going nowhere". This could in effect be a new framework agreement, taking a leaf from the experience in the 2012 breakthrough in the MILF peace process. But the idea of a negotiation roadmap that is like a new framework agreement might run into a NDFP roadblock of insistence on resuming formal talks only "on the basis of upholding, respecting and implementing [more than ten] previously signed agreements", including the 1995 *Joint Agreement on Safety and Immunity Guarantees* (JASIG), which is the agreement most relevant to the on-going non-substantive issue raised by the NDFP for the release of its claimed "consultants" and other "political prisoners" detained by the GPH. The NDFP considers this an issue no less of GPH trustworthiness for respecting its signed agreements.

It might be noted that the 2012 *Framework Agreement on the Bangsamoro* (FAB) specifically provided the clause “without derogating from any prior peace agreements”, including two prior framework agreements in 1998 and 2001, but still moving forward based on a new framework. A better framework, one that is more viable and developed, should help move the peace talks forward. As has been said in the MILF peace process: “If neither party in the negotiations thinks outside the box, all they would arrive at is a constant impasse”. The “box” mainly referred to is the Constitution, but it could also refer to ideology and even “prior peace agreements”. Says another peace observer: “Both sides [in the NDFP peace process] might have lost some perspective after going round in circles for so many years”, such as to now merit a new framework agreement.

Finding that new framework, or at least what court-annexed mediators call “zones of possible agreement” (ZOPAs), is actually where the on-going efforts of supportive civil society peace advocates of diverse political persuasions (gathered under a broadening Citizens Alliance for Just Peace -CAJP-) can help. We are referring to the CAJP’s modus of study sessions on key issues relevant to the talks. These study sessions, which are mainly for developing a shared understanding of the peace process, can, themselves, further develop towards being tapped for actual problem-solving inputs for the peace negotiations. The lessons learned and the confidence built among politically diverse peace advocates can also have a ripple effect on the peace negotiators and leaders of both sides with whom the advocates have their own lines.

The persistence of civil society peace advocates, as well as of the prestigious third-party facilitation of the Royal Norwegian Government (RNG), are among the few sources of hope that the NDFP peace process still has going for it. It behoves all concerned, especially the leaders of both sides, to draw valuable guidance now from various aspects of the current phenomenon that is already being called “the Pope Francis effect”, which resonates with his Filipino mass base. This has implications also for the armed struggle/conflict and the peace process/agenda.

After all, it was his namesake St. Francis of Assisi who prayed: “Lord, make me an instrument of your peace”.

by Marlon Sison



TIMELINE OF THE GPH-CPP/NDFP/NPA PEACE PROCESS

December 1968	Creation of the Communist Party of the Philippines (CPP)
March 1969	Creation of the New People's Army (NPA) - CPP's military wing
April 1973	Creation of the National Democratic Front (NDF) – a coalition of political parties, trade unions, and other allied groups, including the CPP – NPA
April 1986	President Corazon C. Aquino formally calls for an indefinite ceasefire between the Government of the Philippines (GPH) and the NDF to pave the way for peace talks
1987	First informal talks between the GPH and the NDF. 60 days ceasefire agreement between the GPH and the CPP/NPA/NDF signed
September 1992	The Hague Joint Declaration
June 1994	Breukelen Joint Statement by the GPH and the Panel for Peace Talks with the CPP/NPA/NDF and the National Democratic Front (NDF Delegation)
February 1995	Joint Agreement on Safety and Immunity Guarantees (JASIG) Joint Agreement on the Ground Rules of the Formal Meetings between the GRP and NDFP Panels
March 1998	Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) between the GRP and the NDFP Additional Implementing Rules of the Joint Agreement on Safety and Immunity Guarantees (JASIG) Pertaining to the Security of Personnel and Consultations in Furtherance of the Peace Negotiations

February 1999	Officials from the AFP/PNP are abducted by the NPA. President Joseph Estrada announces an indefinite suspension of the talks and of the Joint Agreement on Safety and Immunity Guarantees (JASIG)
April 1999	AFP/PNP Officials released. The GPH lifts the suspension of the talks and of the JASIG
May 1999	The Philippine Senate ratifies the Visiting Forces Agreement (VFA) with the US Government. Two days later the NDFP announces the Recognition of De-facto Termination of peace negotiations by the GRP. Soon after, the GRP formally acknowledges its termination of peace talks
2001	President Gloria Macapagal-Arroyo assumes the Philippines presidency. Shortly after she reconstitutes the GPH Negotiation panels for talks with the NDFP The Royal Norwegian Government (RNG) starts its involvement as a third party facilitator
March 2001	Joint Statement by the Negotiating Panels of the GPH and the NDFP
April 2001	Oslo Joint Communique
January 2004	Joint Statement to Resume Formal Talks in the GRP-NDFP Peace Negotiations
February 2004	Oslo Joint Statement
June 2004	Partial Supplementary Guidelines for the Joint Monitoring Committee Memorandum of Understanding between the GPH, the NDFP and the Royal Norwegian Government (Third Party Facilitator)
August 2004	The NDF withdraws from the negotiating table (on account of the renewed inclusion of Jose Maria Sison and the CPP/NPA in the US terrorist list)

December 2010	<p>Informal chair-to-chair meetings in Hong Kong. Both chairs agree to:</p> <p>(1) Unilateral Christmas suspension of offensive military operations will be observed by both sides from December 16, 2010 to January 3, 2011</p> <p>(2) Conduct of preliminary talks in 14-18 January 2011 to pave the way for</p> <p>(3) The resumption of formal talks in 15-21 February 2011 in Oslo</p>
February 2011	<p>After an impasse of six years, the GPH-NDF formal peace talks resume in Oslo (Norway). Both parties agree to issue an 18-month time frame to complete the negotiations. The GPH and NDF panels reconvene the Joint Monitoring Committee (JMC) of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). Both panels further agree to complete the draft comprehensive agreements on the remaining items of the agenda, such as the socio-economic reforms, political-constitutional reforms, and end of hostilities and disposition of forces.</p>

Sources:

Chronology of the Peace Process and Peace agreements between the Philippines and the National Democratic Front (Christine Bell and Helia Farahnoosh). Political Settlements Research Programme, Briefing Paper 03 (2015). Accessed at:

<http://www.politicalsettlements.org/files/2015/10/Briefing-Paper-Philippines-Chronology.pdf>

<http://www.opapp.gov.ph/cpp-npa-ndf>

THE HAGUE JOINT DECLARATION

September 1, 1992

1

JOINT DECLARATION

Benigno Aquino III
Luciano
Chen
Murt
Chen

We, the undersigned emissary of the Government of the Republic of the Philippines (GRP) and the undersigned representative of the National Democratic Front of the Philippines (NDF) have held exploratory talks at The Hague, The Netherlands on August 31 - September 1, 1992 and have agreed to recommend to our respective principals the following:

1. Formal peace negotiations between the GRP and the NDF shall be held to resolve the armed conflict.
2. The common goal of the aforesaid negotiations shall be the attainment of a just and lasting peace.
3. Such negotiations shall take place after the parties have reached tentative agreements on substantive issues in the agreed agenda through the reciprocal working committees to be separately organized by the GRP and the NDF.
4. The holding of peace negotiations must be in accordance with mutually acceptable principles, including national sovereignty, democracy and social justice and no precondition shall be made to negate the inherent character and purpose of the peace negotiations.

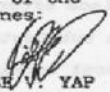
5. Preparatory to the formal peace negotiations, we have agreed to recommend the following:

a. Specific measures of goodwill and confidence-building to create a favorable climate for peace negotiations; and

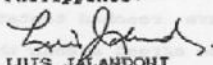
b. The substantive agenda of the formal peace negotiations shall include human rights and international humanitarian law, socio-economic reforms, political and constitutional reforms, end of hostilities and disposition of forces.

Signed on September 1, 1992 in The Hague, The Netherlands.


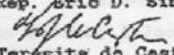
For the Government of the
Republic of the
Philippines:

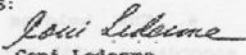
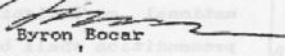

Rep. JOSE V. YAP
Emissary

For the National
Democratic Front of the
Philippines:


LUIS JALANDONI
Representative

WITNESSES:


Rep. Eric D. Singson

Teresita de Castro
State Counsel


Coni Ledesma

Byron Bocar

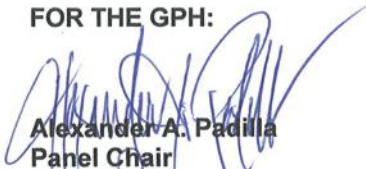

Jose Maria Sison

AND AFTER 20 YEARS, STILL ...

**JOINT STATEMENT
June 15, 2012
Oslo, Norway**

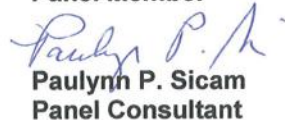
The Parties have agreed to continue meaningful discussions of concerns and issues raised by both sides on June 14 and 15, 2012 in Oslo, to pave the way for the resumption of the formal talks in the peace negotiations in order to resolve the armed conflict and attain a just and lasting peace.

FOR THE GPH:


Alexander A. Padilla
Panel Chair


Efren C. Moncupa
Panel Member


Jurgette A. Honculada
Panel Member


Paulynn P. Sicam
Panel Consultant


Maria Carla M. Villarta
Director and Secretariat Head


FOR THE NDFP:


Luis G. Jalandoni
Panel Chair


Fidel V. Agcaoili
Panel Member



Julieta S. de Lima
Panel Member


Jose Maria Sison
Chief Political Consultant


Rachel F. Pastores
Legal Consultant

Witnessed by:


Amb. Ture N.L. Lundh
Third Party Facilitator


Wighberto E. Tanada
Observer

How do you end a protracted, seemingly intractable, conflict that has lasted for more than 40 years? And how do you do it in a context of exhaustion and disillusion? This collection of articles by Judge Sol Santos, presents a thoughtful analysis of the peace process between the Government of the Philippines and the CPP-NPA-NDFP over the last decade. They propose alternative solutions to on-going challenges whilst highlighting the role of civil society and affected communities. At the core of Judge Sol's writing stand those directly affected by the conflict: those holding arms at both sides of the divide, those caught in the midst of it: the internally displaced, the wounded, the dead ones, their families, friends and comrades. As this book shows: "A peace process is easier promised than done". However, there is a moral obligation to continue pushing for a negotiated solution. These articles call for a change of attitude among those involved in the negotiation. The time is now.



The Centre for Peace and Conflict Studies is home to a range of interconnected programmes that promote the advancement of peace processes, research and learning. It creates opportunities for practitioners, students, academics and analysts to access information and resources that are contextually grounded.

www.centrepeaceconflictstudies.org