

## ***On Violations of the International Humanitarian Law***

With the termination of the major hostilities between the Philippine Armed Forces and the Muslim rebels and other elements in Mindanao, pursuant to its Constitutional mandate to monitor Philippine Government's compliance with international treaty obligations on human rights, the Commission on Human Rights renders this human rights Advisory on violations of the International Humanitarian Law (*Protocol II*).

The International Humanitarian Law provided under Protocol II is a set of principles and rules which set limitations to the use of violence during armed conflicts in order to spare non-combatants, that is, persons who are not directly involved in any hostilities such as the civilians, the wounded and the shipwrecked.

The International Humanitarian Law (Protocol II) is the law that controls the conduct of armed conflicts in non-international warfare such as what happened in Mindanao. The said law is not concerned about the legitimacy or illegitimacy of armed groups fighting the established government. It is concerned more on the protection of human rights of non-combatants not involved in armed conflict whether committed by government armed forces or rebel groups.

As monitored by the Human Rights Regional Directors in the Mindanao are where armed conflicts have occurred, incident of killing of men by government troops have taken place such as what happened in Lanao Dakula and Indanan. Children were not spared.

No precautionary measures were made before the armed attacks to spare civilians, especially women and children from the armed violence. In general there was no distinction between combatants and non-combatants in armed encounters.

In Pandami, Siasi, an island town in Sulu, military planes and helicopter gunships swooped down and bombarded civilians purposely to flush out the *Abu Sayyaf* group. Indiscriminate searches in houses were conducted.

There are reports of desecrations of places of worship as what happened in a Muslim mosque in Barangay Manilop, Indanan. Big stones were allegedly placed inside the mosque, which showed that it was used for cooking by the soldiers with chicken feathers and parts of animals thrown around. The mosque was likewise reportedly looted and damaged.

As reported, there have been illegal arrests and violation of personal liberty. The military forcibly rounded up people and herded them to the army camps.

One of the biggest number of complaints from all affected towns is looting of household items including domestic animals like goats and chickens. A resident of Tubang Sanin, Manilop, witnessed how goods were actually loaded in 6x6 military trucks.

Civilian houses were burned and damaged as a result of aerial bombardment by military planes. Marginal fisherfolks whose only means of livelihood is fishing were adversely affected due to the military armed attack.

On the part of the rebels, incidents of massacre of civilian non-combatants have been committed. Rebel groups harassed or killed persons and civilians for refusal to lend support to the MILF Command.

Incidents of attack on commercial buses which resulted in the killing of innocent passengers have been reported.

The most serious offenses were the kidnapping for ransom committed by the Muslim groups.

The foregoing incidents are outright violations of the International Humanitarian Law as provided in Protocol II. Principally, the violations were:

- There were no distinctions between combatants and civilians.
- There were no briefings of military personnel before the operations to ensure proper conduct

in civilian population.

- There was no restraint or caution in the use of armed force.
- There were no efforts with respect to the evacuation of children and the preservation of family unity.
- There had been destruction of objects not connected with the armed struggle.
- There was no proper attention to the evacuated families, the wounded and the sick nor respect for the care of dead persons.
- The rights of children as provided for in the Convention of the Rights of the Children have been violated.

The CHR finds that both sides of the armed conflict have grossly violated the International Humanitarian Law. Based on these unfortunate experiences in our country, there is a need to educate the people on the obligations and responsibilities of the military personnel during internal armed conflict.

On the other hand, while government has no control on the behavior of the rebel groups, our government armed forces should set an example to them that they are complying with the International Humanitarian Law. As what happened to the people in the areas where the incidents occurred, the government military forces personnel have grossly violated the International Humanitarian Law and we cannot expect the rebel to comply with the law.

Lastly, reports from the Human Rights Regional Directors, one of which came from Jolo show that lawyers and peace officers, as well as residents, have complained with indignation of the total absence of court judges in that area. People have been arrested and jailed for violation of laws and for lack of court magistrates, they remain in prison. The situation has caused criminal elements to commit crimes with impunity and lack of respect for the law.

Pursuant to our constitutional mandate to protect and provide legal assistance to victims of human rights, we have recommended the immediate appointment of judges for Jolo and other areas in Mindanao. The reports say that some of the criminal cases have been tried in Zamboanga City which adds to the financial burden not only to the litigants but also to the government.

The Human Rights Directors of Regions IX, X, and XII have been directed to furnish copies of this advisory translated in the dialect of their respective areas for information and guidance.

*Quezon City, 15 November 2000*