

ON HUMAN RIGHTS VIOLATIONS COMMITTED BY THE CAFGU AND OTHER PARA-MILITARY GROUPS AGAINST INDIGENOUS PEOPLES

Introduction/ The Philippine Situation

The number of human rights violations committed by the military and paramilitary groups specifically against our Indigenous Peoples, as recorded in the Regional Offices of the Commission on Human Rights, has rapidly increased in the past years. This deserves our utmost attention.

In Region XII, the most pressing human rights issue is the armed conflict between the government forces and the Moro Islamic Liberation Front (MILF) in Liguasan March Area, known as the Buliok Complex situated in the Municipalities of Pikit and Pagalungan, province of North Cotabatao and Maguindanao. The sectors affected are the children, women, youth, internally displaced people and Muslims. It was gathered that there was displacement of about 6,583 families or 39,498 persons. Some stayed in the government centers and others sought shelter among their relatives who are not affected by the armed conflict. Some houses were burned in Barangay Galigayanan, Pikit, Cotabato in the course of the intense fighting between government troops and the MILF. The people lost their livelihood and others lost their livestocks, working animals and harvest. The school children in the affected areas stopped going to school. Women, children and the elderly suffered poor health condition. Water supply was almost not available and food rations from the concerned government line agencies were non-accessible.

The areas particularly affected are that of Sultan Kudarat, Maguindanao and Sarangani Provinces. Among the problems identified are the exploitation of the IPs ancestral domain perpetrated by some unscrupulous individuals/groups. One case is that in Datalbao, Columbio, Sultan Kudarat. The B'laan natives of Sition Lam-alis were reportedly harassed, illegally arrested and detained by the military soldiers. Their properties were looted after their houses were forcibly entered into. The natives were accused of being NPA guerillas. Allegedly, the IPs built a bunkhouse for the rebels. Some of the natives were forced to admit that they were NPAs for fear of death. The villagers admitted though that once a month, the NPA guerillas pass by their village but only to rest under the trees for a couple of minutes after which they leave again. Sometimes they asked for food, and if there is nothing, they just leave. The instant case was already referred to the Office of the Military Ombudsman, recommending immediate indictment of the responsible elements of the military, should prima facie case exist. Aside from investigating and providing legal assistance, the Region also conducted dialogues among the concerned parties and some awareness activities on the rights of Indigenous Peoples. The B'laan village in the said area has already been declared as "Zone of Peace."

In Region IX, the continuing internal armed conflict hostilities resulted in wanton and indiscriminate killings, ambushes, unlawful seizures and searches, unlawful arrest, social unrest and economic instability. The victims of these atrocities were the most vulnerable sectors of society – women and children, the peasants, the fisher folks and the elderlies. In the areas of armed conflict, economic empowerment was limited. There was inadequate delivery of basic health services and protection, and education of the children and youth was disrupted. It also resulted in child labor due to the need to augment the family income for subsistence.

In the Cordillera Administrative Region (CAR), a delegation of 40 persons from Barangays Mainit, Dalican and Guinaang, Bontoc and Belwang and Betwagan in Sadanag, all in Mt. Province, complained to their mayor that three of their rice granaries have been forcibly entered and ransacked by the Philippine Army Units operating in the area. They also complained that old men pasturing their livestock were fired upon, illegally detained and interrogated and their belongings searched on the suspicion that they were NPA supporters. During the dialogue, the complainants said that their carabaos died due to bombings and more of their cows and carabaos are missing. The peanuts, beans and rice have been left unharvested and rotting in their fields. For over a month, residents were forced to stay at home, resulting in the delay of their agricultural calendar.

Reports from the Cordillera Peoples' Alliance (CPA) claim that operations of the 54 th IB and the Reconnaissance Group harmed civilians in Bontoc and Sadangan towns wherein, multiple incidents of harassment and illegal arrest have terrorized the residents of the town.

In Region IV, a specific area in Southern Tagalog, has been a hotbed of insurgency and of social unrest. This is not because there are mountain ranges where the NPA rebels take refuge from attacks by the military. To counter the insurgency, four (4) battalions of the AFP were deployed in the area, not to mention the paramilitary units called the CAFGU Active Agents (CAAs). Charges of militarization have been hurled against the military such as the celebrated case of the killing of Eden Marcellana and Eddie Gumanoy where the suspected killers were alleged members of the military. On the other hand, the military blames the NPA of killing farmers and rebel returnees.

In the Caraga Region, a member of the Indigenous Peoples group who is also a barangay captain of Lanuza, Surigao del Sur, lodged a complaint for harassment and grave threats against the Battalion Commander of the 62 nd IBPA. Unfortunately, the unit is now based in Catbalogan, Samar . CHR is still in the process of completing its investigation but through its intervention, this office was informed that the Battalion Commander was already relieved.

The militarization of some areas contributes to the increase in number of human rights violation. Military men are deployed in the following areas: Aurora Province ; Nabuclod, Floridablanca and Porac, Pampanga; and Doña Remedios Trinidad, Bulacan.

The Indigenous Peoples in the provinces of Bukidnon and Lanao del Norte are situated no differently. Issues such as war conflicts between the lawless armed elements and the government armed forces prevail.

Thus, because of these reasons, rural dwellers migrate to the urban centers to find a place in the sun or for a greener pasture or scamper for their family's safety from the ensuing firefight between the lawless armed elements and the government armed forces.

The basic human rights issues involved are the right to life, liberty, dignity, security, food, water housing, health and education.

Failure of peace talks, dialogue and ceasefire agreement and lack of security for evacuees result in more IP evacuation and displacement. IPs are often victims also to forced recruitment of CAFGUs/NPAs and tribal forces and massacres, abduction, kidnapping and threats.

The Stavenhagen Report

This miserable plight of our cultural minorities is further bolstered by the so-called "**Stavenhagen Report**" submitted by Mr. Rodolfo Stavenhagen, Special Rapporteur of the United Nations, who visited the Philippines in December, 2002 specifically for the purpose of knowing the situation of the Indigenous Peoples in the Philippines .

The said report gave an account of the current situation and condition of the indigenous peoples in the Philippines , the measures being undertaken by the government in protecting their rights as well as specific recommendations therefor. The basic issues and/or human rights violations surrounding the indigenous peoples were found as follows: rights to ancestral domains, "development aggression," and **militarization**.

The Report stated that:

"These activities (economic development activities such as but not limited to quarrying and mining) are often carried out without their prior, free and informed consent, as the law stipulates. Communities resist development projects that destroy their traditional economy, community structures and cultural values, a process described as "development aggression." Indigenous resistance and protest are frequently countered by military force involving numerous human rights abuses, such as arbitrary detention, persecution, killings of community representatives, coercion, torture, demolition of

houses, destruction of property, rape, and forced recruitment by the armed forces, the police or the so-called paramilitaries, such as Civilian Armed Forces Geographical Units (CAFGUs). The militarization of indigenous area is a grave human rights problem, as members of indigenous communities are sometimes accused of rebellion or engaging in “terrorist” activity. In the context of the armed conflict that still prevails in the countryside, indigenous communities and organizations are often victimized and their human rights abused.

When indigenous peoples were involved in counter-insurgency operations they suffered indiscriminate firing, dispossession and destruction of their property, food blockades, illegal detentions, physical assaults, harassment, torture and threats. Such incidents have been reported in various parts of the country.

Special mention must be made of CAFGUs set up by the army in numerous indigenous municipalities, whose semi-military activities often tend to divide local communities and set one group against another. The Under-Secretary of National Defense informed the Special Rapporteur that these units should be considered as reserve units of the armed forces, which occasionally carry out military activities when the need arises. However, indigenous peoples reported that these are not regularly trained military units and that their objective was to control the political and social life of local communities, in disregard of the latter’s traditional customs. They reported that divisions among indigenous peoples were created by a tactic whereby the military actually chooses the community leaders (Datu) in order to manipulate and control the community. They asked that CAFGU’s be removed from their communities because they do not carry out any beneficial activity.”

The Report includes details of the information gathered and those submitted by various non-governmental agencies concerned with the monitoring of these indigenous peoples.

Accordingly, as part of the recommendations, Mr. Stavenhagen, in his report said:

“Given the severity of the various alleged human rights abuses and the divisive effects on indigenous communities caused by irregular military units or paramilitary groups, the Special Rapporteur urges that *CAFGUs be withdrawn from indigenous areas altogether, within the framework of national programme to demilitarize indigenous peoples’ territories*. Furthermore, the Special Rapporteur recommends that the Government of the Philippines *take maximum caution to protect indigenous peoples’ rights during its military operations*, in accordance with international humanitarian standards.”

International Instruments Relating to Human Rights and the Proper Department of law Enforcement Officials

The world community, while acknowledging each State’s necessity of maintaining a strong national military arm, recognizes the possibility of abuse coming from the military ranks. Several International Instruments addresses this issue in order to prevent human rights violations especially to those members of the community who are the least able to protect themselves.

The *International Bill of Human Rights* consisting of, among others, the *Universal Declaration of Human Rights*, the *International Convention on Civil and Political Rights* and the *International Convention on Economic, Cultural and Social Rights*, to which the Philippines is a signatory, clearly mandates all member states to respect the human rights of all persons without discrimination of any kind. Thus, whether you belong to the minority or the so-called civilized society, everyone deserves equal protection and treatment before the law.

The rights enshrined in the abovementioned International Bill of Rights are, *inter alia*, the rights to life, liberty, security of persons, equal protection before the law, due process, privacy, of movement

and to freely participate in their cultural life. The rights against discrimination of any and all kinds, slavery, torture or to cruel, inhuman or degrading treatment or punishment, arbitrary arrest are likewise protected.

More specifically, under the *Code of Conduct for Law Enforcement Officials* adopted as early as December 17, 1979, the following were pronounced as basic principles to be observed:

Article 1

“Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.”

Article 2

“In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.”

- The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

Article 3

“Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.”

Article 5

“No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.”

In the same vein, the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* adopted by the General Assembly on August 27, 1990 contains the following guidelines:

General Principles

Principle 4

Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

Principle 5

Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- *Exercise restraint in such use and act in proportion to the seriousness of the offense and the legitimate objective to be achieved;*
- *Minimize damage and injury, and respect and preserve human life;*
- *Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;*
- *Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.*

Principle 8

Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special Provisions

Principle 9

Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

The Armed Forces of the Philippines is the Protector of the People and the State

At the national level, no less than the *Philippine Constitution* enshrines, under **Article II**, the following as its declared national principles,

Section 3

*“Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the **protector of the people and the State**. Its goal is to secure the sovereignty of the State and the integrity of the national territory.”*

Section 4

*“The prime duty of the Government is **to serve and protect the people**. xxx”*

Further, the Philippines, under the same Article of the Constitution, adopts the generally accepted principles of international law as part of the law of the land.

Recommendations

The current state of affairs of our indigenous peoples is already appalling as it is. Violations of their human rights aggravate their condition and endanger their respected recognition transcending to the Filipino national cultural heritage. It is stressed that indigenous peoples are human beings. The

protection of their human rights should be the principal consideration akin to respecting the nation's identity and the Filipino's being.

Like all civilians, the indigenous peoples fall prey to violations in the government's efforts to put a stop to terrorism and insurgency. The sufferance of our brethren are by no means measurable because of oppressive acts amounting to their being marginalized as a sector of our society and resulting to the violations of their human rights. This simply has no place in a civilized society. The Commission on Human Rights totally abhors this practice.

This calls for national action. All sectors must cooperate in order to obviate the violations committed against our brothers. However, the Commission on Human Rights as well as the other non-governmental organizations can only do so much.

We call on the Armed Forces to help in realizing this objective. A review of the military operations, especially those conducted in the mountains and by the CAFGUs, is highly called for. CAFGU activities must be monitored and evaluated. Safeguards must be set in place in order to protect the human rights of our indigenous peoples. Violations must be reported and properly addressed. Violators must accordingly be punished.

The use of force by law enforcement officials should be exceptional, the principle of proportionality of must be observed and that the use of firearms be considered as an extreme measure.

If we don't give the protection and respect due our indigenous people today, we are only to blame if they will no longer be there to receive our protection in the future.

12 September 2005 .