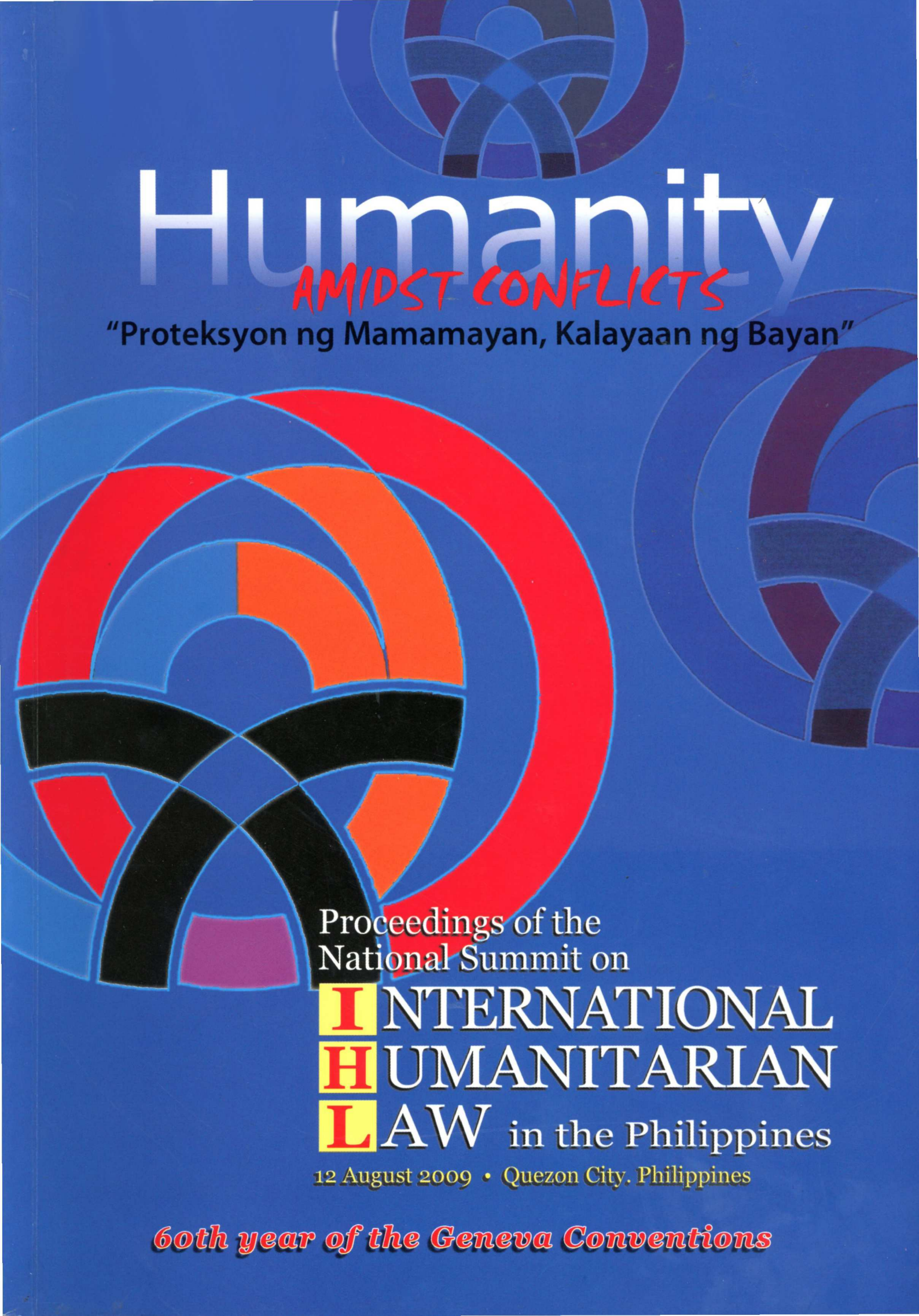




Humanity

AMIDST CONFLICTS

"Proteksyon ng Mamamayan, Kalayaan ng Bayan"

Proceedings of the
National Summit on

INTERNATIONAL
HUMANITARIAN
LAW in the Philippines

12 August 2009 • Quezon City, Philippines

60th year of the Geneva Conventions

Humanity Amidst Conflicts

Proceedings of the National Summit on International Humanitarian Law in the Philippines

Editors:

Leila M. De Lima

Cecilia Rachel V. Quisumbing

Ma. Clara V. Ravina

Managing Editor:

Ana Elzy E. Ofreneo

Documentation/Project Team:

Epifania O. Garay

Teresita Galicia-Anzano

Cynthia D. Orqueza

Jean Viernes-Evangelista

Publication and Production:

Shella N. Laggui

Photos:

Alexander M. Flores

Arabella R. Azas

Nolasco "Jun" Magboo

Design of IHL logo:

Christopher C. Ku

Copyright © 2010

Printed in the Philippines

REGAN PRINTERS INC.

This report was printed principally for the benefit of the participants of the National and Regional Summits on IHL to keep them reminded of their commitments to advocate IHL. This may be quoted from or copied so long as the source is acknowledged.

The printing of this publication was made possible through the grant of the Embassy of Switzerland in Manila.



COMMISSION ON HUMAN RIGHTS

SAAC Bldg., U.P. Diliman, Quezon City 1101
Philippines

Telefax Nos. (+632) 928-4471

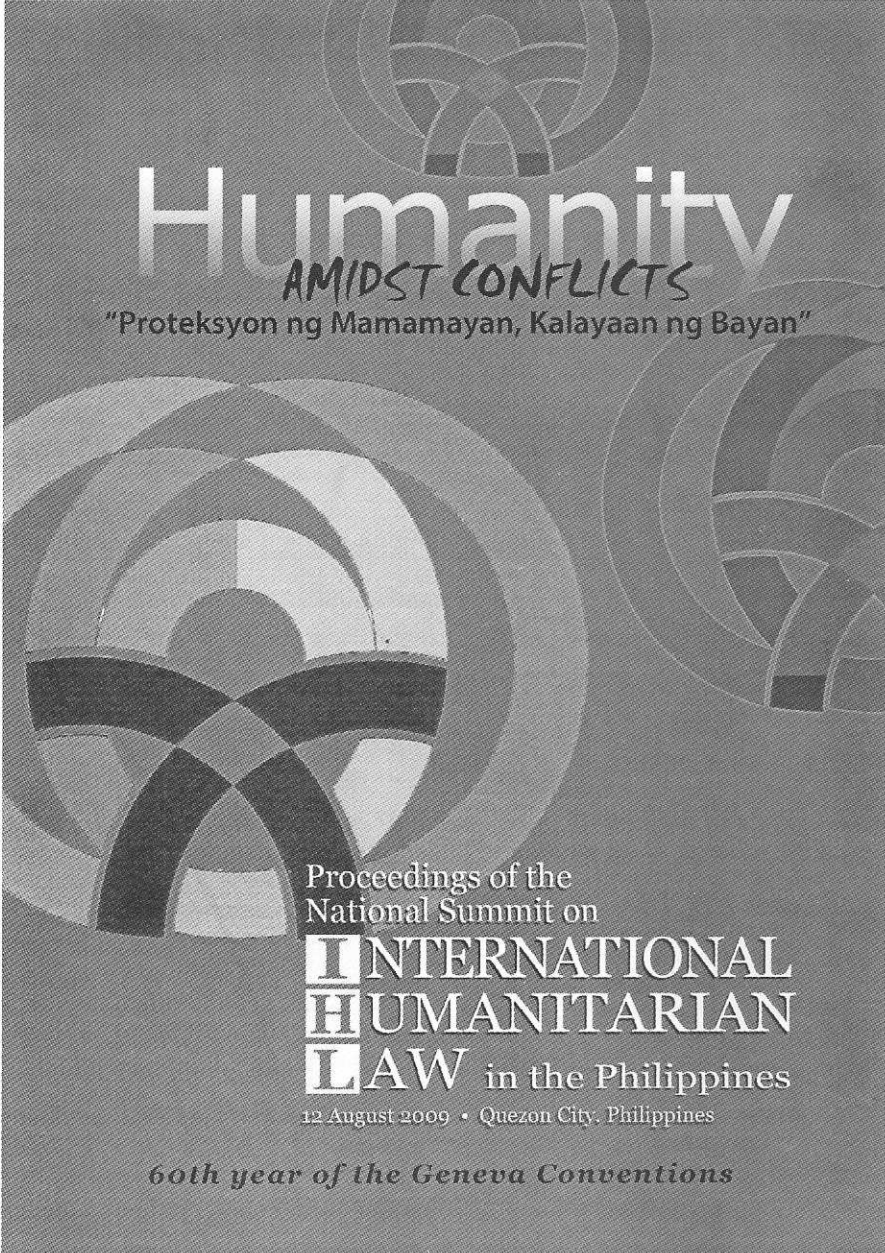
(+632) 927-6225

Website: www.chr.gov.ph



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Embassy of Switzerland



Humanity

AMIDST CONFLICTS

"Proteksyon ng Mamamayan, Kalayaan ng Bayan"

Proceedings of the
National Summit on

INTERNATIONAL **H**UMANITARIAN **L**AW in the Philippines

12 August 2009 • Quezon City, Philippines

60th year of the Geneva Conventions



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



LEILA M. DE LIMA

Chairperson, Commission on Human Rights of the Philippines

MESSAGE

A little over eight months ago, the IHL National Summit took place in Quezon City. It was the activity which marked the culmination of a whole host of IHL-related events earlier that year. These included a kite flying event in the U.P. Sunken Garden, where dozens of kites were launched into the skies, and remained aloft as symbols of the aspiration, for higher goals in terms of making IHL real in the Philippines.

These also included a set of regional summits, held all over the nation, which sought to gather the concerns, comments and recommendations, of individuals and organizations throughout the country, in order to bring as complete a picture as possible, to the attention of our leaders, at the National Summit. And at that summit, more than 160 participants from sectors as diverse as the diplomatic community, civil society, and the media, as well as government offices, and especially representatives of the uniformed services, were in attendance and participated in full.

Gaps and challenges were identified. Corresponding recommendations were issued. And some very constructive statements were made, and commitments undertaken by the parties. But as we fast forward to today, it only becomes abundantly clear that while some progress has been made since August 2009, the overall health of IHL in the Philippines is unfortunately quite poor.

Yes, an IHL Law was finally passed in December last year, and its significance should not be underestimated, but the ensuing difficulty which arose in relation to the publication of that law, eloquently demonstrates how hesitant some of our leaders are, when it comes to bolstering accountability for genocide, war crimes and crimes against humanity.

Also, over these last eight months, we have continued to witness incidents which appear to represent a willingness on the part of some to ignore or only pay lip service, to the laws and customs of war. We have seen how civilians have continued to be lumped together with combatants, via branding and demonizing, and how many civilians have been considered legitimate military targets, in violation of IHL. Some of the incidents are relatively high profile, such as the continuing concerns regarding the arrest and detention of the “Morong 43.” Many other incidents take place under the radar, from the militarization of barangays, to forced recruitment of community members and indigenous peoples, to the displacement of thousands by the indiscriminate use of force. And underpinning all of this, the violence, the deprivation, the destitution and despair, is the stop-and-start process that is the negotiation for a lasting peace.

It is appropriate, eight months after the National Summit, to revisit the content of that event, the information gleaned, the discussions engaged in, the give-and-take, and the back-and-forth. It is imperative that we take a closer second look at the output of that large group of professionals, from various backgrounds and institutions, who gathered together last year to hammer together and drive home, recommendations aimed at mitigating the horrors of war, protecting civilians and non-combatants, and thereby making true peace in our country, that much closer and that much more possible.

Allow me to express my deep appreciation for the men and women, through whose efforts this publication was crafted and produced. It is vital that the efforts of yesterday, are not consigned merely to the back shelves of our efforts, but are built on and accumulated, so that they can enable an even more effective approach, going forward.



FOREWORD

The Commission on Human Rights has been at the forefront in promoting the protection of and adherence to *Human Rights* (HR) and *International Humanitarian Law* (IHL) since its creation by the Philippine Constitution in 1987.

To systematically carry out its constitutional mandate to “establish a continuing program of research, education and information to enhance respect for the primacy of human rights”, the CHR formulated and, since 1988, had been consistently implementing its *Strategic Plan for Human Rights Promotion*. In the same year, CHR also developed its *General Human Rights Education Curriculum*, which had, among others, two big modules: one, *Human Rights in Times of Peace*; and another, *Human Rights in Times of Emergencies*.

In the early days of CHR, civil society organizations (CSOs) casted their doubting looks at the capacity of CHR to promote HR and IHL. Years of consistent and systematic delivery of HR-IHL education and advocacy programs contributed to the building of their confidence with CHR, such that, in 1989, the CSOs started to earnestly seek the cooperation and support of the CHR to their advocacies, *inter alia*, for the protection of vulnerable groups, especially children, internally displaced persons, and indigenous peoples in situations of armed conflict.

For 2009, one of the major advocacies of CHR is the commemoration of the 60th anniversary of the Geneva Conventions. The commemoration provided a good opportunity to take stock of the gains made so far in the promotion of the ideals and principles of IHL in the Philippines. On its part, CHR's initiatives include the following:

- institutionalization of HR-IHL education in the career courses of the military and the police [Because of this, UNESCO awarded CHR its **1994 Prize for Human Rights Teaching**.];
- together with other advocates, advocacy for the passage of the IHL bill which is now RA 9851 [better known as the “*Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*”];

- advocacy programs for protected or vulnerable groups, especially those who are most prone to become victims of violations of HR and principles of IHL;
- advocacy for the implementation of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL);
- handholding of leaders and opinion makers to become HR and IHL advocates;
- Establishment of the IHL Division within the Human Rights Education and Research Office; and,
- Forging of agreements between and among stakeholders for HR and IHL promotion and protection.

With the advent of the 60th year of the Geneva Conventions, the Civil Society Initiatives on IHL (CSI-IHL) sought a partnership arrangement with CHR in organizing a 60-day celebration of the Geneva Conventions. The CHR partnership with CSI-IHL produced a line-up of commemorative activities that commenced with “Kite Flying for IHL”, followed by a series of “IHL road shows” and climaxed with the joint implementation of the herein reported “National Summit on IHL”.

The National Summit on IHL aimed to produce the following substantive outputs: a national situationer on IHL in the Philippines; recommendations towards a Philippine Program of Action on IHL; and, a Summit Communiqué. These outputs were deemed important to the peace talks between the Government of the Republic of the Philippines and the National Democratic Front as well as other parties.

As proposed by CHR, the **National Summit on International Humanitarian Law in the Philippines** was adopted as the main celebratory event of the National Inter-Agency Ad-Hoc Committee created by Executive Order 134 to spearhead the observance of **August 12** as **IHL Day**. With the EO134 Ad-Hoc Committee’s support, CHR was also able to organize simultaneous Regional IHL Summits nationwide. In this vein, CHR would like to thank the EO134 Ad-Hoc Committee, chaired and co-chaired by the Department of Foreign Affairs and the Department of National Defence, respectively, for its full support to the conduct of the National Summit on IHL.

Finally, CHR wishes to also thank the Embassy of Switzerland for its support in the printing of this *Report of Proceedings of the National Summit on IHL in the Philippines*. Printed copies can now be distributed by CHR to main IHL duty bearers and to all participants to keep them reminded of their commitments.

ANA ELZY E. OFRENEO

Director IV

Human Rights Education and Research Office

Commission on Human Rights

CONTENTS

INTRODUCTION TO THE NATIONAL SUMMIT ON IHL

Objectives of the Summit	3
Backgrounder	3
The 60 th Year of the Geneva Conventions	3
Commemorative Activities	
a) Kite Flying for IHL	4
b) The Regional Summits on IHL	4
c) The National Summit on IHL in the Philippines	5

OPENING PROGRAM

Welcome Remarks	9
by Hon. CHR Commissioner Cecilia Rachel V. Quisumbing	
Opening Remarks	10
by Hon. DND Undersecretary Alberto C. Valenzuela	12
Remarks	13
by Hon. DFA Assistant Secretary Evan P. Garcia	
Keynote Address	14
by Hon. Executive Secretary Eduardo R. Ermita	

SOLIDARITY MESSAGES

by ICRC Legal Officer Atty. Chamaine A. Enerva	19
by CSI-IHL Convenor Mr. Ernesto A. Anasarias	20
by Embassy of Switzerland's Hon. Charge d'Affaires Juerg Casserini	21

REVIEW OF PHILIPPINE STATE AND NON-STATE ACTORS'

OBLIGATIONS ON INTERNATIONAL HUMANITARIAN LAW	25
by Hon. CHR Commissioner Jose Manuel S. Mamauag	

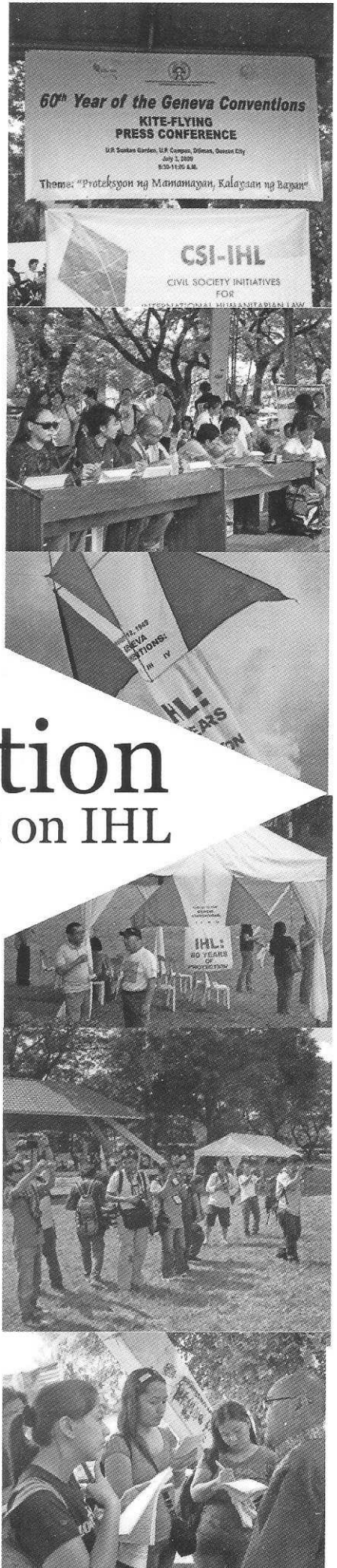
PANEL DISCUSSIONS

Topic 1 — IHL SITUATIONERS FROM THE GROUND	
Presentation by CHR Director Atty. Marilyn Pintor	31
Presentation by Mindanao Bantay Ceasefire Mr. Yul Olaya	33
Topic 2 — GOOD PRACTICES AND INITIATIVES OF SERVICE PROVIDERS	
Presentation by Sulong CARHRIHL Professor Miriam Coronel-Ferrer	35
Presentation by OXFAM Country Director Ms. Lan Mercado	38

Topic 3 – INTERFACE BETWEEN INTERNATIONAL AND DOMESTIC LAWS ON ARMED CONFLICT	40
By GRP-JMC Chairman and Ateneo Dean of School Affairs Atty. Sedfrey M. Candelaria	
Book Launching:	
Graduated Curricula on Human Rights and International Humanitarian Law for the Military	41
OPEN FORUM	
Question No. 1 : On Impartiality and Non-taking of Political Chances	45
Question No. 2: On Institutional Bodies for the Enforcement of HR and IHL	45
Question No. 3: On the Forging of Agreements Between Civilians, CSOs and the Military and on How to Enforce IHL in the Armed Groups	47
WORKSHOP	
A. ACTION PLANS ON IHL	
Workshop Mechanics	51
Workshop Outputs	52
Presentations	
Workshop Synthesis	64
Consolidated National Issues, Gaps/Challenges & Recommendations	
B. THE IHL SUMMIT COMMUNIQUE	67
CLOSING	
Closing Remarks	70
By Hon. CHR Commissioner and Officer-in-Charge Norberto de la Cruz	
ANNEXES	
The Program	73
CHR's Logo on IHL	74
Executive Order No. 134	75
Declaring August 12, 1999 and Every 12 th Day of August Thereafter as International Humanitarian Law Day	
Republic Act No. 9851	76
An Act Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity, Organizing Jurisdiction, Designating Special Courts, and for Related Purposes	
Backgrounder on Republic Act 9851, The "IHL LAW"	87
by CSI-IHL Co-Founder/Convenor Atty. Soliman M. Santos, Jr.	
CSI-IHL Members / E.O. 134 Ad Hoc Committee	91
List of Summit Participants	92
Abbreviations	96

Introduction

to the National Summit on IHL



The Objectives of the National Summit on International Humanitarian Law

The Summit aimed to come up with the following:

-
- A Situationer on IHL in the Philippines
 - Recommendations towards a Philippine Program of Action on IHL
 - A Summit Communiqué
-

These objectives were successfully achieved during the Summit.

Background

Sixty years ago on August 12, international laws protecting persons in armed conflict came into existence. These laws, known as the 1949 Geneva Conventions, are the major backbones of International Humanitarian Law (IHL). To promote greater awareness of the principles of IHL, former President Joseph Estrada issued Executive Order No. 134, series of 1999, declaring every August 12 as IHL Day in the Philippines.

With this, Civil Society Initiatives on International Humanitarian Law (CSI-IHL) and the Commission on Human Rights (CHR) conducted a series of consultation meetings to come up with a program of activities that will fit with the celebration of the 60th Anniversary of the Geneva Conventions. One such activity is the holding of a National IHL Summit. Prior thereto, activities include the Kite Flying Event, Regional IHL Summits and IHL Fora, jointly conducted by the CHR and CSI-IHL.

The 60th Year of The Geneva Conventions Commemorative Activities

For 2009, considering the fact that IHL was turning 60 years old, the CHR and CSI-IHL organized a 60-day commemoration of IHL beginning with the Kite-Flying, and culminating with the IHL National Summit.

a) The Kite-Flying Activity

The Kite-Flying was held at the Sunken Garden of the University of the Philippines, Diliman, Quezon City on July 3, 2009. It was an activity to symbolize freedom from violations of IHL. Kite-Flying (and Kite-Display) formally opened the 60-day celebration, as well as created public awareness on, the 60th anniversary of The Geneva Conventions. Sixty kites (1 mother kite and 59 smaller kites) were flown that bear 60 messages on IHL promotion and protection. Included in the messages were the rights of the



Internally Displaced Persons and children in armed conflicts.

The theme of the activity was: “Proteksyon ng Mamamayan, Kalayaan ng Bayan”. This was attended by 130 participants coming from the government and civil society organizations.

Before the Kite Flying proper, Mr. Rolando Ongkiko, President of the Kite Flying Association of the Philippines, gave a briefer and some techniques on how to fly the kites successfully. With that, everyone was able to fly the kites and enjoyed as well.

The main focus of the event was the flying of the giant mother kite. Commissioners Cecilia Rachel Quisumbing, Jose Manuel Mamauag and Ma. Victoria Cardona led the flying of the mother kite, together with the convenors of CSI-IHL.

The giant mother kite and the smaller kites were successfully flown in varying altitudes. Some flew higher while others, only momentarily, and waved down. The mother kite had this message: “*IHL: 60 Years of Protection Amidst Conflicts*”.



b) The Regional Summits on IHL

Regional IHL Summits were organized by the 15 Regional Offices prior to the National Summit. These were held between August 5-10, 2009. The regional outputs were submitted to the CHR Central Office and consolidated for presentation during the National Summit.

The most common issues that were raised in almost all Regional Summits were: the lack of education and information on IHL among the populace or limited knowledge on IHL in some regions; scarcity of knowledge on the protection of Internally Displaced Persons especially women and children; and, humanitarian protection on the life and dignity of the civilian populace.

The other common issues raised were : indiscriminate attacks; civilians used as human shields; negative perception of the public towards AFP and PNP; and, the lack of legislation and policies on IHL implementation to address the issues. Also mentioned in the regional reports was

the non-existence of data banking on IHL violations and other information.

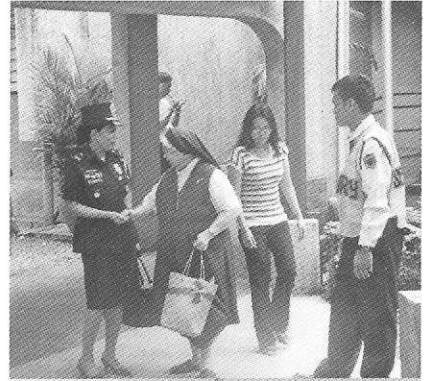
c) The National Summit on IHL

The National Summit on IHL was the culminating activity of the 60-day celebration of the 60th anniversary of The Geneva Conventions. It was held at SEAMEO-INNOTECH in Quezon City on August 12, 2009. It was attended by a total of 168 participants.

The Composition of Participants

The participants consisted of the following: Diplomats -15, GOs – 89, NGOs-45, Resource Persons - 5, Media - 12, Guests - 6. The fifteen diplomats who graced the occasion represented the following countries: Australia, Brunei Darussalam, Canada, Chile, China, Finland, Germany, Iran, Korea, the Netherlands, Saudi Arabia, Switzerland, and United Mexican States. Delegates from various government offices were also present, including CHR officers and staff.





Opening Program



Opening Ceremony

The National Summit started at exactly 9:00 o'clock in the morning. Ms. Karen Tañada, from the CSI-IHL was the Emcee of the hour. As an opening statement, she welcomed all the participants to this important day of celebrating the 60th Anniversary of the 1949 Geneva Conventions, particularly the relevance of IHL. She mentioned that she was co-facilitating with Dir. Ana Elzy E. Ofreneo of CHR.

Before the Opening Remarks, Comm. Quisumbing was briefly introduced by Ms. Tañada, in this wise:

"Over the past few decades, Commissioner Cecilia Rachel V. Quisumbing has worked in journalism, development, law and international affairs here

and abroad. She received her degree in Bachelor of Laws and BA in Political Science from the University of the Philippines. As a Fulbright scholar, she earned her Masters in International Affairs from Columbia University. She also holds a Masters Degree in Business Administration from Golden Gate University in San Francisco."

"Prior to her appointment to the Commission on Human Rights, she was the Executive Director of the Presidential Human Rights Committee with the rank of Undersecretary at the Office of the President of the Philippines. And before that she was the Presidential Adviser to the UN in New York. Let us listen to the Opening Remarks of Commissioner Cecilia Rachel V. Quisumbing."



WELCOME REMARKS

HON. CECILIA RACHEL V. QUISUMBING

Commissioner

Commission on Human Rights

Comm. Cecilia Rachel V. Quisumbing welcomed all the guests and participants to the Summit – the members of the diplomatic corps, Executive Secretary Eduardo R. Ermita, the representatives from the Civil Society groups and her fellow Commissioners from the CHR.

Comm. Quisumbing said it is noticeable that the day's gathering was not only a gathering of government organizations but of different sectors of society because it is a recognition that it is not only government, such as the military and police, that has a role in respecting and promoting IHL.

"The Commission on Human Rights has long recognized the link between the international humanitarian law and human rights. For instance, when there is armed conflict, one of the rights that is most threatened is the right to life, the right to the basic services that is so necessary to protect life, such as clean water, medical services, food and even food production. The right to security of person is of course very much under threat. The right to development and decent living are among the most affected. We can see that in our southern Philippines where not only is there a lack of economic investment because people are afraid of putting their money where they might find themselves bombed but also where one of the biggest industries that employs people and our young people are actually the insurgency groups. It is something that we do not want to continue in the next



decades. But it is a result of about 40 years of armed conflict.

"The right to education and the right to culture are not only damaged by armed conflict but they are now protected under international humanitarian law. So not only the civilians and non-combatants are protected; but, as we see under IHL, basic installations such as water utilities, electricity utilities, medical facilities but also any building related to religion, any objects related to culture and education are supposed to be respected.

"We in the Philippines know that IHL plays an important role in peace building. And as we are hoping to move forward, with two peace processes with the CPP-NDF and with MILF, we hope that with greater compliance with IHL, both sides and all parties will build confidence in each other and may build a deeper foundation and a stronger grounding before actually reaching a lasting peace agreement. Only by the humane treatment of each other, regardless of differences in ideology and regardless of differences in religion or ideas of how government should be respected. Even in armed conflict, if we treat each other humanely, then we are still human separating ourselves from basic instincts.

"Unfortunately, IHL compliance in the Philippines is far from perfect. The recent developments show this. We have reports for instance that NPAs have sacked one of the barangays in Davao and actually took hostages, including children. We saw earlier this month bombings in several cities in Mindanao which affected lives and livelihood. There is a continued use of child soldiers and even children as messengers.

"Internal armed conflict should not be used to justify violations of either human rights or international humanitarian law. Around the world, it is established and accepted that all parties to an armed conflict have to respect the rights of civilians and the protected installations, even those of non-combatants who used to be combatants.

I say these in recognition of the AFP personnel who are working to protect the country, but also feel that who do this international standards seem to tie their hands, but not those of the other parties. Well, they do. They are supposed to tie the hands of the other countries and when they behead their prisoners and when they hold people's courts which are not established by recognized law and use those as reasons for executions, then they themselves are in violation. They should also be condemned and brought to justice and they should not gain any popular support because they are not showing that they can lead the country any better than animals.

"The Philippine government recognizes IHL so much so that Executive Order 134 established August 12 as IHL Day, and created a National Adhoc Committee of several agencies towards celebrating this every year. This year, it is chaired by the Department of Foreign Affairs, the

Department of National Defense is the vice-chair and other agencies such as the DSWD take part in that Committee and of course the CHR. Let's not forget the civil society. They are not part of the Committee but the civil society has a very vital role. First of all, they are on the ground. They can look at situations and monitor them. In fact, last July, the news about tens of thousands of people displaced by the renewed fighting caused by the failed memorandum of agreement on the Bangsa Moro ancestral land agreement was reported to the CHR by NGOs. They also promote IHL and Human Rights. They can provide assistance immediately even faster sometimes than the National Disaster and Coordinating Committee because they are already there. That's why it is very important to recognize Civil Society. In fact, CSI-IHL is an umbrella organization of many groups here in the Philippines. CSI-IHL stands for Civil Society Initiatives for International Humanitarian Law. They took the initiative. They contacted the Commission on Human Rights and said they want to partner with the CHR to celebrate the 60th Anniversary of the IHL. And the AdHoc Committee, the government groups, decided to adopt this Summit as the main activity for IHL Day. And so it is only fitting, true enough in bringing together the Civil Society, the government and the independent CHR to mark this important day.

"We began the celebrations as far back as July 3rd, with the Kite Flying, symbolizing first of all, our desire for higher goals. And also the freedom from fear and suffering that is caused by armed conflict. To reach the higher level, however, we need action, action that is coordinated, that is cooperative and that is constructive. Action that is hopefully planned so that we can also plan to

“Unfortunately, IHL compliance in the Philippines is far from perfect. The recent developments show this. We have reports for instance that NPAs have sacked one of the barangays in Davao and actually took hostages, including children. We saw earlier this month bombings in several cities in Mindanao which affected lives and livelihood. There is a continued use of child soldiers and even children as messengers.

“Internal armed conflict should not be used to justify violations of either human rights or international humanitarian law. Around the world, it is established and accepted that all parties to an armed conflict have to respect the rights of civilians and the protected installations, even those of non-combatants who used to be combatants.

I say these in recognition of the AFP personnel who are working to protect the country, but also feel that who do this international standards seem to tie their hands, but not those of the other parties. Well, they do. They are supposed to tie the hands of the other countries and when they behead their prisoners and when they hold people’s courts which are not established by recognized law and use those as reasons for executions, then they themselves are in violation. They should also be condemned and brought to justice and they should not gain any popular support because they are not showing that they can lead the country any better than animals.

“The Philippine government recognizes IHL so much so that Executive Order 134 established August 12 as IHL Day, and created a National Adhoc Committee of several agencies towards celebrating this every year. This year, it is chaired by the Department of Foreign Affairs, the

Department of National Defense is the vice-chair and other agencies such as the DSWD take part in that Committee and of course the CHR. Let’s not forget the civil society. They are not part of the Committee but the civil society has a very vital role. First of all, they are on the ground. They can look at situations and monitor them. In fact, last July, the news about tens of thousands of people displaced by the renewed fighting caused by the failed memorandum of agreement on the Bangsa Moro ancestral land agreement was reported to the CHR by NGOs. They also promote IHL and Human Rights. They can provide assistance immediately even faster sometimes than the National Disaster and Coordinating Committee because they are already there. That’s why it is very important to recognize Civil Society. In fact, CSI-IHL is an umbrella organization of many groups here in the Philippines. CSI-IHL stands for Civil Society Initiatives for International Humanitarian Law. They took the initiative. They contacted the Commission on Human Rights and said they want to partner with the CHR to celebrate the 60th Anniversary of the IHL. And the AdHoc Committee, the government groups, decided to adopt this Summit as the main activity for IHL Day. And so it is only fitting, true enough in bringing together the Civil Society, the government and the independent CHR to mark this important day.

“We began the celebrations as far back as July 3rd, with the Kite Flying, symbolizing first of all, our desire for higher goals. And also the freedom from fear and suffering that is caused by armed conflict. To reach the higher level, however, we need action, action that is coordinated, that is cooperative and that is constructive. Action that is hopefully planned so that we can also plan to

dedicate the necessary resources. And that is what today is all about. Today is not only about speeches. Today is not only about goodwill. But we hope that by means of the workshops later to gather recommendations for actions and policies for all actors towards a national IHL action plan.

“This could not have been done without of course the support of the whole National Adhoc Committee. I would like to give special recognition to the CHR HR Education and Research Office ably led by Director Ana Elzy E.

Ofreneo, specifically also by our IHL Division in that Office which is led by Ms. Epifania Garay who is there at the back. Thank you also to CSI-IHL and member organizations. Many thanks also to our supporting partners, especially the Swiss Embassy in the Philippines and the International Committee of the Red Cross.

Ladies and gentlemen, we have a very busy day. It will be heavy but I hope you will also enjoy it. Thank you very much and please stay with us during the entire day.”



OPENING REMARKS

HON. ALBERTO C. VALENZUELA
Undersecretary
Department of National Defense

Undersecretary Alberto Valenzuela applauded the Commission on Human Rights for continuing the celebration of IHL Day. He said that the holding of the National Summit on IHL is not only in compliance with Executive Order No. 134 but more importantly, it observes and values the significance of such a noble body of laws to our country. He said that this year’s celebration is more special as the Philippines is commemorating the 60th anniversary of the four conventions of International Humanitarian Law. The Four Geneva Conventions, and along with other protocols, embody the rules on the conduct of war and limit its cruelty and barbarity.

He reaffirmed the commitment of the Department of National Defense (DND) and its primary bureau, the Armed Forces of the Philippines, to uphold the principles of International Humanitarian Law. To this end, USec Valenzuela said that the IHL



principles are taught in courses offered by the AFP to its officers and enlisted personnel. In addition, the AFP has established a Human Rights Office which monitors the AFP’s adherence to the principles of HR and IHL and undertakes programs to ensure the organization’s compliance with these principles.

He concluded his message by informing everybody that in behalf of the Department of National Defense and the Armed Forces of the Philippines, it is his great anticipation to the day when everyone could finally celebrate a stable and lasting peace in the country.

REMARKS

HON. EVAN P. GARCIA

Assistant Secretary
United Nations and
Other International Organizations
Department of Foreign Affairs

Assistant Secretary Evan Garcia greeted everyone a very warm morning and extended the warmest greetings from the DFA Secretary Alberto G. Romulo to the celebration of the International Humanitarian Law Day.

This year's commemoration is special as it marks the 60th Anniversary of the Geneva Conventions and its Protocols, and it is fitting that the theme of the celebration for today is: *"Geneva Conventions: Humanity Amidst Conflicts"*.

He stressed that the Geneva Conventions is one of humanity's greatest achievements in confronting the inhumanity of war. It commands universal acceptance by States with a total number of 194 member country ratifications. The Conventions form the heart of International Humanitarian Law, the internationally accepted body of law that is humanity's shield against the ravages of war.

He further emphasized that International Humanitarian Law is often referred to as the laws of war or the laws of armed conflict because it codifies the norms that should regulate the conduct of armed conflict and limit its effects. It defines the conduct and responsibilities of belligerent nations between nations as well as individuals and non-State parties engaged in warfare in relation to each other and to civilians. It is sacred to human rights law as well as international humanitarian law as the protection of human life. Both bodies of law prohibit torture or cruel treatment and both prescribe basic rights



for persons facing criminal proceedings. Both prohibit discrimination. However, the scope of ratification of these two bodies of law is different. IHL applies in times of armed conflicts; whereas human rights applies at all times, both in peace and war. IHL binds all actors in armed conflicts, States, armed groups and individuals. Human rights law regulates relations including individuals.

In behalf of the Department of Foreign Affairs, ASec Garcia commended the Commission on Human Rights of the Philippines and its partners for organizing the National Summit on International Humanitarian Law. He then hoped that the celebration of International Humanitarian Law Day will increase awareness of this important body of international law as it seeks to protect the lives, liberty and humanity in times of such protection as it is needed most.

In his conclusion, he reiterated the complete and full commitment of the Philippine Government to respect the international and national standards of IHL and Human Rights Law regardless of obstacles and challenges that come their ways. He then invited all the participants to work with the government in this endeavour as they continue their work today and the days ahead.

KEYNOTE ADDRESS

HON. EDUARDO R. ERMITA

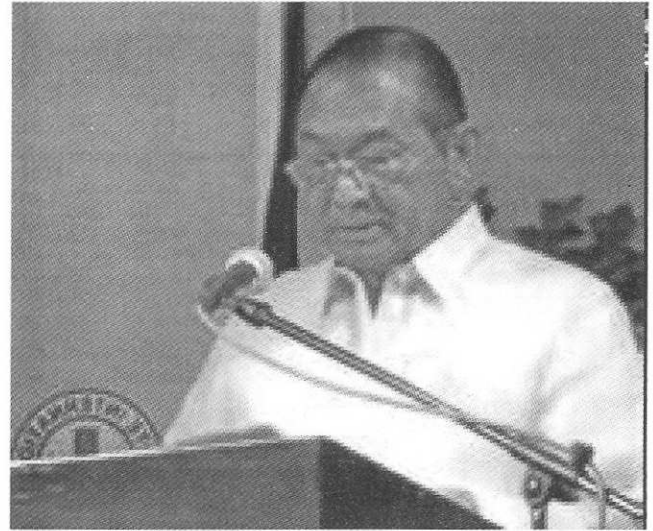
Executive Secretary
Office of the President of the
Republic of the Philippines

In his keynote message, Executive Secretary Eduardo Ermita extended the warmest greetings to everyone from Her Excellency President Gloria Macapagal Arroyo on the occasion of the 60th Anniversary of the 1949 Geneva Conventions which, together with the Additional Protocols that were adopted in 1977, comprise the International Humanitarian Law, otherwise known as IHL.

He commended the two organizations behind the conduct of this National Summit on IHL, namely: the Commission on Human Rights which is chaired by the ever energetic and distinguished legal luminary, Attorney Leila De Lima, and which, right now, is headed by Commissioner Norberto de la Cruz, Officer-in-Charge in the absence of the Chairperson; and the Civil Society Initiatives for International Humanitarian Law, or CSI-IHL, whose presence was also recognized. He congratulated both agencies for the successful partnership and for the job well done. Today, the Philippines joins hands with 193 other countries in celebrating this significant event.

The States' Commitment to IHL

The Philippines' commitment to IHL is steadily anchored on the State policy expressed in no less than the 1987 Constitution which states that *"the Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of International Law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations"*.



The Geneva Conventions and the Additional Protocols were set in stone with much of the world consumed in armed conflict or cultivating an uncertain peace. While celebrating the 60th Anniversary of the Geneva Conventions, their utmost importance under the new millennium, given the various incidences of conflict all over the world, can never be overstated.

Study on Armed Conflicts

The Heidelberg Institute for International Conflict Research counted 134 violent conflicts happening in 2008, 94 percent of which are intra-State in nature. Quite significantly, this same study classified both the armed conflicts with the New People's Army and the Moro Islamic Liberation Front as high-intensity violent conflicts, or conflicts of severe crises.

On the other hand, the Philippine Human Development Report of 2005, which has yet to be updated, cited that even during the relatively short period of 1986 to 2004, 91 percent of the provinces in the country were affected at some point by ideology-based armed rebellion. This situation underscores the threat and actual toll of armed conflict to human security, social ecology, and people's capacities.

IHL Realities in the Philippines

Secretary Ermita underscored: *"Today, in our own backyard, our pursuit of political and socio-economic reforms are continually distracted by incidents of internal displacements, particularly in Mindanao, due mainly to the wanton attacks against civilian villages by rogue elements of the Moro Islamic Liberation Front, or the MILF, as well as by terrorist groups, such as the Abu Sayaff."*

"We have incidences of recruitment of children by rebel groups, giving rise to children in armed conflict, or CIAC."

"We have the issue of unexplained killings which the Philippine government has addressed through responsive strategies, the effectiveness of which has been affirmed by no less than international bodies, such as the European Commission and concerned Human Rights Committees of the United Nations."

"And who can disregard the kidnapping of humanitarian and peace workers by kidnap-for-ransom groups?"

Considering the aforecited situations, he emphasized that all of these distractions indicate the urgency of stressing IHL as a template in addressing these issues.

Strategies Needed

To address those issues, Executive Secretary Ermita highlighted two important strategies that are needed to collaboratively undertake as stakeholders.

First, the need to strengthen the integration of IHL in the government policy and domestic legal system. And in so doing, the government itself further capacitates national and local mechanisms to ensure compliance with IHL;

Second, by encouraging and committing everyone to never weaken the campaign to disseminate information and educate the public especially those in conflict-affected areas on IHL principles. For him, to inform and educate is to empower and mobilize the people.

Cited as an example on how these strategies are being carried out is the Philippine Comprehensive Peace Process as an important vehicle in the implementation of IHL.

One of the Six Paths to Peace

One of the Six Paths to Peace, which is the government's current peace policy framework, is *"Addressing concerns arising from continuing armed hostilities."* This component involves the strict implementation of laws and policy guidelines, and the institution of programs to ensure the protection of non-combatants and reduce the impact of the armed conflict on communities located in conflict areas.

IHL Implementation

Along with this process is the implementation of IHL. This has been mainstreamed in the peace process with the Communist Party of the Philippines-New Peoples Army-National Democratic Front (CPP-NPA-NDF), particularly through the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law or CARHRIHL.

Likewise, the IHL is a major reference in the peace process with the Moro Islamic Liberation Front (MILF). During the long period of *impasse* in both peace negotiations, the IHL served as a cloak of protection as well as hope for the civilians and non-combatants caught in the armed conflict. We are glad that the peace processes with both the NDF

and the MILF are both gaining headway, with the negotiating panels committing and are currently preparing for the resumption of the peace talks that we expect to happen soon.

These positive developments provide new impetus for the advocacy and implementation of IHL. Even now, relative peace in Mindanao is enhanced with the suspension of offensive military operations by the AFP and the suspension of military action by the MILF, along with intensive efforts for the early recovery of the internally displaced families.

Concluding Statement

Executive Secretary Ermita underscored two points on a matter of principle and policy, to wit:

First Point: While IHL sets the rules for combatants in engaging in conflict, and monitored by the strategists, it is not for combatants alone to

learn and understand. It is very important that civilians at the local level participate in advocating and ensuring that parties to the armed conflict comply with IHL principles;

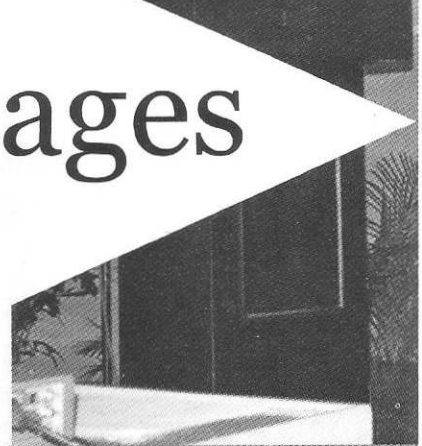
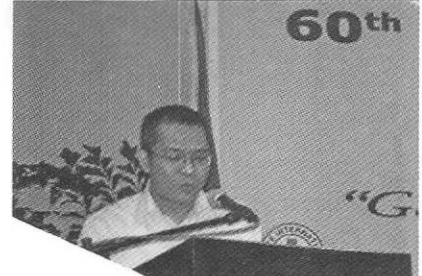
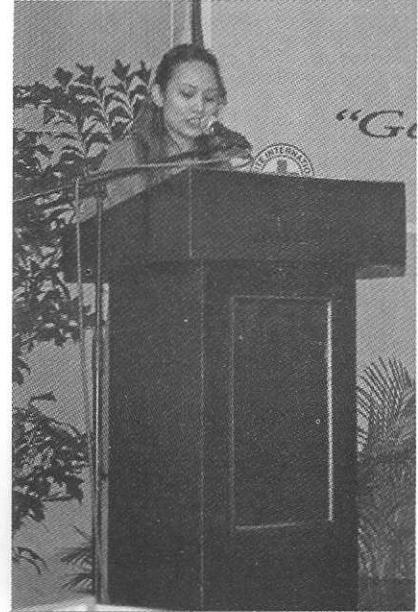
Second Point: While IHL is an overarching measure to humanize war, it should not encourage any armed group to continue engaging in war for in truth, war can never be humane.

In the end, IHL should remind us of one very important thing: that war should be prevented at all costs and all efforts must be exhausted to end all forms of armed conflict. On that alone, the annual observance of International Humanitarian Law Day should remain meaningful and relevant.

In closing, Executive Secretary Ermita, on behalf of President Gloria Macapagal-Arroyo, wished success to all in their collective efforts.



Solidarity Messages



SOLIDARITY MESSAGE

ATTY. CHAMAINE A. ENERVA

Legal Officer

International Committee of the Red Cross (ICRC)

"Warm greetings to each and everyone. Thanks to the Commission on Human Rights and the CSI-IHL (Civil Society Initiative on International Humanitarian Law) for organizing the National Summit on IHL where the Geneva Conventions turns 60, which is an important milestone which teaches on how war was waged.

"As recalled, in 1949, Statesmen in Geneva, Switzerland organized to form three Geneva Conventions and add the fourth - one which is dedicated to the Protection of Civilians. Since then, these treaties have been supplemented by the Additional Protocols and by important documents like the customary humanitarian law.

"Remarkably, the Conventions have been universally ratified, meaning, every single State in the world is a Party signatory to them. The Geneva Conventions have been successful. They have saved human beings, giving comfort to thousands of Prisoners of War and contributed to the promotion of peace."

IHL Applicability

"International Humanitarian Law is applicable during armed conflict not like Human Rights which applies at all times both for peace time and armed conflict. Secondly, HR Law and IHL traditionally bind different nations. While it is clear that IHL binds parties to the conflict, it is more conventional than Human Rights Laws.

"Further, Human Rights, expressed as individual entitlements, has been understood to bind all States. Underscoring its applicability, Human



Rights apply both in armed conflict and in times of peace. So, HR norms is a violation in times of public disturbance, whereas in IHL it is absolutely crafted as public emergencies which are armed conflict. Mostly, HR Law and IHL complement as much as the Legal Laws.

"In addition, IHL is also a protection of persons who are in the power of the party to the conflict. On the other hand, it will show far more differences between the two bodies of law, but HR law sometimes, is being more protective because of its further development.

"Lastly, today, there is a need for the development of International Humanitarian Law in terms of national implementation. With this, the International Committee of the Red Cross expresses its commitment to assist the government in the translation of International Humanitarian Law into National Laws. They are also positive that it would happen because of the vast majority of people who supported the role of the core principles of IHL. This clearly manifests that knowledge of International Humanitarian Law is important.

"Finally, thank you to the Commission on Human Rights for giving me the opportunity to be a part of this occasion."

SOLIDARITY MESSAGE

MR. ERNESTO A. ANASARIAS

Convenor, CSI-IHL and
Executive Director,
Balay Rehabilitation Center

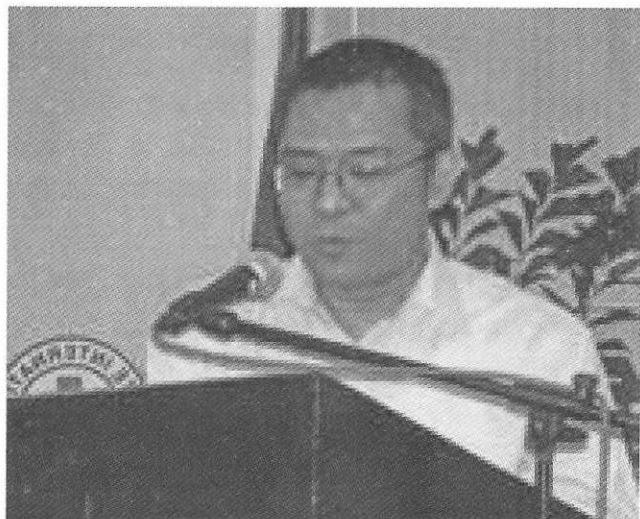
Mr. Anasarias started his message with warm greetings to everyone and hoped that everybody is well.

He narrated a story about an armed conflict which happened in Pikit, North Cotabato not too long ago where a little girl in an evacuation center made a big impression on humanitarian agencies. In a crowd of “bakwit” or internally displaced persons, this destitute but dignified girl stood holding a placard. On it was an inscription that read: “We need food but we need safety most. I need to go back to school”.

He identified food and safety assistance, as two vital and integrally related components of humanitarian action, is an old and obvious truth but is one that is deeply difficult to realize. As we journey to the 21st century, armed conflict and extreme violence against civilians have been responsible for mass sufferings and deaths.

Mr. Anasarias also emphasized that perhaps the easiest way of understanding the notion of civilian protection is to think about the people who need it most, their experience of war, the laws that demand their protection and the authorities that are required to provide it.

“As we celebrate the 60th year of the signing of the Geneva Conventions, perhaps we need to pause and ponder how much of these instruments of humanitarian protection have made an impact in reducing, if not preventing the sufferings of



civilians and non-combatants. The law, the legal principles of primary State responsibility and the mandate of particular humanitarian agencies over civilians are important legal protection in war.

“However, people are not fully protected just because the law says that they are, and because they identify authorities with the duty to protect.” He said, in many wars, laws are frequently broken consciously and purposively by all sides including non-State armed groups. And in some wars, these laws are simply unknown and they remain an open question whether knowledge of them would affect the behaviour of the warring parties. Often, they are broken especially by those with the greatest responsibility for keeping them. In other situations, States that are willing to abide by these laws lack the power or means to do so.

Challenges

The real challenges in humanitarian protection work are not only legal ones per se but the practical ones of ensuring responsibility, provision and good conduct on the ground. It is the art of securing the protection of civilians that is demanded by law from all those responsible for enforcing these laws.

Concluding Statement

In his conclusion, in behalf of the CSI-IHL as one of the proponents of the present IHL Summit, he extends his wish for everyone for a meaningful and substantive activity where the convergences go beyond the coming days. *“May their initiatives go beyond the walls of the conference hall and reach the civilians and non-combatants alike in the sites of conflict, in the places where the IDPs are located, in military camps, the schools and in the chambers of governance and into the hearts and minds of the general public.”*

He called on the major parties to the armed conflict in the Philippines, namely, the

Government of the Republic of the Philippines and its Armed Forces, the Communist Party of the Philippines and the New People’s Army, and the Moro Islamic Liberation Front to continue to bring into force, in the context of the peace process, the Geneva Conventions to the extent appropriate to the respective armed conflict while celebrating this occasion to honor these Conventions.

In this way, the highest standard of the so-called rules of war might be applied to the situations of armed conflict so that civilians and other protected persons under IHL will benefit from better humanitarian protection.

SOLIDARITY MESSAGE

HONORABLE JUERG CASSERINI
Chargé d’ Affaires
Embassy of Switzerland

Mr. Juerg Casserini greeted each and everyone and said that he is greatly honoured and privileged to address the few groups of personalities from the government of the Philippines, from politics, business, International Committee of the Red Cross, non-government organizations and guests while celebrating the 60th Anniversary of the Geneva Conventions and the International Humanitarian Law Day.

“In the Four Geneva Conventions, it is an obligation to protect the victims of military action. For Switzerland, it is committed to ensure that an obligation is respected. My country, Switzerland, attached special importance to the anniversary of the Geneva Conventions. Switzerland has been the depository of the Geneva



Conventions for the last 60 years. And respect of International Humanitarian Law as well as the promotion and strengthening of this body of law is one of the main objects of the Swiss foreign policy. The philosophy of the Geneva Conventions dates back to the 19th century following the Battle of Solferino in 1859, where heavy loss of lives occurred. A very significant person, Henry Dunant of Geneva, born in 1828 and died in 1910, initiated the first mission for the protection of persons in

conflict situations. This ultimately laid the foundation of the International Committee of the Red Cross which began in the battlefield of Solferino where human suffering was met without escape and compassion, without distinction. The birth of the Red Cross and the Red Crescent Movement has been expanded worldwide. In tribute to the Swiss founder, the color of the Swiss flag red and white were adopted. “

The Role of International Committee of the Red Cross in the Philippines

“The ICRC is also playing a very important role in the Philippines not only in the areas of displacement in Mindanao but also in many of the parts of the country where the Red Cross members are helping people in need, giving assistance to prisoners, hospitals and many others. There are also many humanitarian organizations who do the same thing and they are working together with ICRC.

“The Four Geneva Conventions of 1949 and the two additional Protocols of 1977 and additional protocol of 2005 is the core of International Humanitarian Law. The Geneva Conventions protecting particular persons who are not or no longer participating in hostilities, civilians or persons taking captive in military camps, persons under the authority of the adverse party to a conflict are entitled to respect for their life and for their physical and mental well being.

“Today, the Geneva Conventions of 1949 and the two Additional Protocols of 1977 are bilaterally regarded as customary international law which is binding in all States and all parties to the conflict where Switzerland is the depository State of the Geneva Conventions and its Additional Protocols.

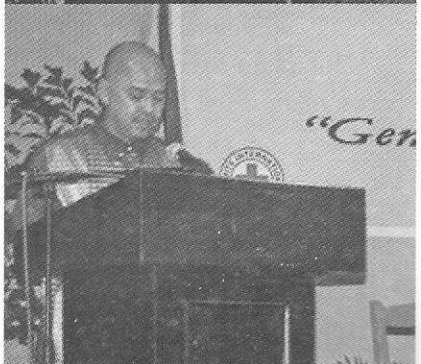
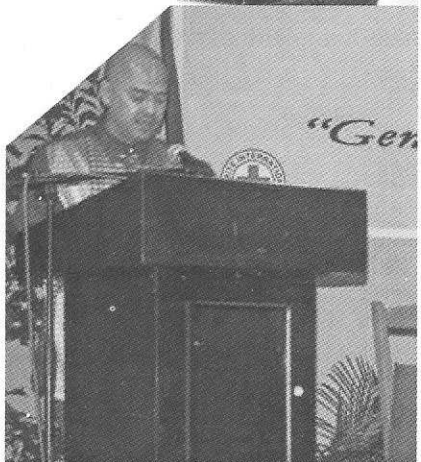
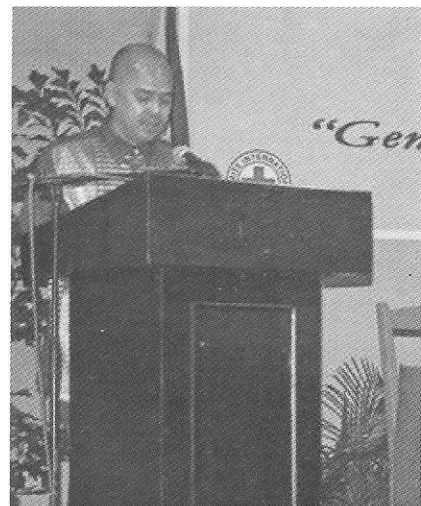
“My country, Switzerland, attaches special importance to the anniversary of the Geneva Conventions. Switzerland has been the depository of the Geneva Conventions for the last 60 years. And respect of International Humanitarian Law as well as the promotion and strengthening of this body of law is one of the main objects of the Swiss foreign policy.”

“Switzerland is proud, together with the ICRC and all other nations, to celebrate today the 60th Anniversary of the Geneva Conventions. The Embassy of Switzerland in Manila is also proud to be a partner of this important National Summit of International Humanitarian Law. Switzerland is committed to finance the two publications, proceedings and recommendations of the August 12 National Summit and the Graduated Curricula on Human Rights and International Humanitarian Law for the Military.

“Thanks again for having invited me to the very important celebration of the 60th Anniversary of the Geneva Conventions. I wish all the participants the very best, good luck and success of their undertaking.

“Finally, keep in mind the aim of the Convention: to protect and to help the people in need in both good and bad times and encourage them to help maintain peace and freedom for all in this world of conflict and unrest”.

A Review of Philippine
State and Non-State Actors'
Obligations on IHL



REVIEW OF PHILIPPINE STATE AND NON-STATE ACTORS' OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW

Speaker: COMMISSIONER JOSE MANUEL S. MAMAUAG

Commission on Human Rights

Commissioner Jose Manuel Mamauag greeted everyone a pleasant morning.

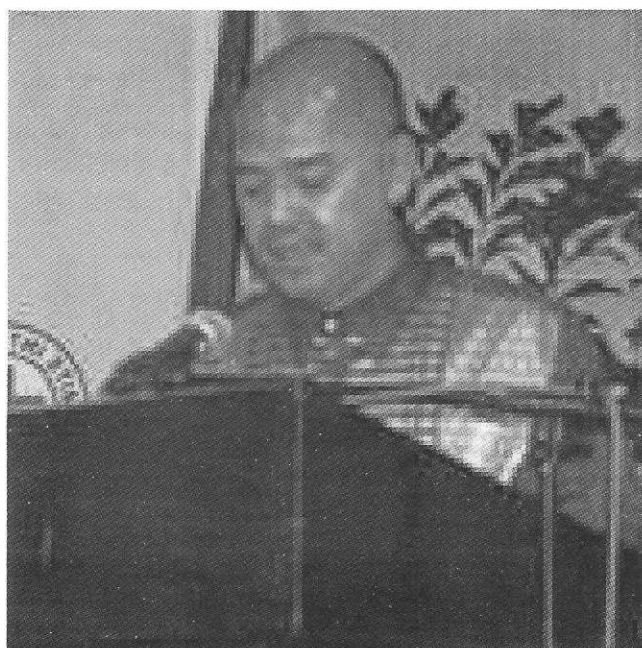
"It is refreshing to be invited to take counsel with a group of concerned citizens who have gathered to engage themselves in the earnest study of the issues and challenges that confront a most serious national endeavour: A National Summit on International Humanitarian Law."

The participants' seriousness of purpose and concern for the good of the nation reassure each and everyone that occasional aberrations in the Philippine legal system cannot and will not overcome the vitality of the democratic spirit that animates the Filipino people. He was most grateful for the privilege to speak at the Summit.

He invited the participants' attention to the copy of the CSI's Primer on IHL in the Philippine Context. The Primer was made a reference because it bears information about the Customary IHL Rules as determined by the International Committee of the Red Cross (ICRC) 2005 Study on the Rules and State Practices, entitled Customary International Humanitarian Law.

Key Norms and Obligations under the 2000 Optional Protocol on the Involvement of Children in Armed Conflict (CIAC)

The key norms and obligations under the 2000 Optional Protocol on the Involvement of Children Involved in Armed Conflict of States' obligations are:



State Parties - - -

- shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take direct part in hostilities;
- shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces;
- shall raise the minimum age for the voluntary recruitment of persons into their national armed forces.

Like the State Parties, the Non-State Armed Groups (NSAGs) have also an obligation as regards Children in Armed Conflict (CIAC).

- The Non-State Armed Groups *"should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years"*.

Basic Obligation of Compliance with IHL by each Party to the Conflict

Each party to the conflict must respect and ensure respect for IHL by its armed forces and other persons or groups acting on its instructions, or under its direction or control. This does not depend on reciprocity, i.e. the other party's compliance.

Advisory and Instructional Obligations

Each State must make legal advisers available, when necessary, to advise military commanders at the appropriate level on the application of IHL. States and parties to the conflict must provide instruction on IHL to their armed forces as well as the teaching of IHL to the civilian population.

Basic Obligations of Enforcement of IHL by States

Further, States may not encourage violations of IHL by parties to a conflict. On the contrary, they must exert their influence, to the degree possible to stop violations of IHL.

Also, a State is responsible for violations of IHL or those attributable to it, including violations committed by the following:

- its organs, including its armed forces;
- persons or entities it empowered to exercise elements of governmental authority, and
- persons or groups acting on its instructions or under its discretion or control.

In summary, International Humanitarian Law can be reduced to a few basic principles: Only combatants, especially members of the armed forces, are authorized to undertake belligerent activity. As long as they behave according to the rules of international humanitarian law, they cannot be held accountable by the parties for participating in armed conflict.

As a rule, only combatants may be the targets of attack. No one who is not or is no longer participating in armed conflict because of wounding, illness, shipwreck or prisoner of war status is a legitimate target of attack, and such people must be protected. When attacks on legitimate targets cause incidental consequences for protected persons, these must be limited to the extent possible. If an attack would lead to disproportionate incidental consequences, it may not be carried out. When engaging in a legitimate attack, parties must refrain from using means and methods that would cause unnecessary suffering.

Courts' Jurisdiction

The Courts' jurisdiction over violators of international crimes exercise jurisdiction or the power to prosecute and punish alleged perpetrators of international crimes on the basis of three principles: territoriality, passive nationality or active nationality.

Recently, the universality principle has emerged empowering any State in cases of international crimes, subject in some cases to the presence of the alleged offender in the territory of the prosecuting State.

Pursuant to the principle of universal jurisdiction, covering grave breaches of the 1949 Geneva Conventions, the Philippines is not only granted the power to prosecute and try the accused, but also obliged to do so, or alternatively, to extradite the defendant to a State concerned. This is true in cases of international armed conflict but is now believed to apply equally to core crimes in non-international armed conflict.

Since the Philippines does not permit arraignment *in absentia*, the presence of the accused in the

Philippines is a condition for initiating criminal proceedings. The practice internationally is to defer to the territorial or the national State, should such State initiate proceedings, or to allow such States first opportunity to do so.

Senate Bill on IHL

The Philippines appears to be one of those States where a bill is pending that seeks precisely such nationalization of the core crime. In Comm. Mamauag's view, this is not necessary because of the **incorporation clause** in the Philippine Constitution that makes treaties the laws and the **adoption clause** therein that makes generally accepted principles of international law part of the laws of the land. Comm. Mamauag hails the Senate's passage on third reading of the measure codifying international humanitarian law within the country's legal system.

The bill was authored by Senator Richard J. Gordon, Senate Bill 2669 which defines and penalizes crimes against international humanitarian law and other serious international crimes and designating special courts.

The bill states: *"There is a need to codify international crimes within the domestic legal system to ensure that those who commit war crimes, genocide and other crimes against humanity are not afforded impunity for their acts".*

The core of Senate Bill 2669 seeks to define three international crimes, namely: war crimes, genocide and crimes against humanity; to provide for their prosecution in the domestic courts; and to impose imprisonment depending on the gravity of the crime committed. The bill also introduces into the country's penal system principles of criminal responsibility unique to the prosecution

of international crimes such as command responsibility, non-prescription of crimes and irrelevance of official capacity.

Should the Philippines decide to take cognizance of a prosecution for these core crimes, a number of general principles will come to play.

Principle of Legality

Another principle of international law which is the Principle of Legality states that there is no crime if no law makes it a crime and also there is no penalty if no law provides for it.

In the Philippines, this principle is satisfied by the application of customary international law recognizing the existence of core crimes and penalizing them. Also, due to the provisions of the Four Geneva Conventions of 1949, which in their entirety already customary IHL on international armed conflicts (except Common Article 3).

Comm. Mamauag added: *"But our experience in the Commission is that reliance on customary international law is doomed to fail because it represents a higher standard of IHL than that for internal armed conflicts. The absence of an IHL enforcement regime for internal armed conflicts is giving us difficulty in the exercise of our power to investigate complaints for IHL violations, if the rate of dismissal of cases we filed in court is any indication. But this alone will not stop us from doing our job".*

Challenge

"The reason for this gathering is precisely because there is no enforcement regime in IHL for internal armed conflict. Thus, the challenge before us now is: to improve the IHL norms, standards and rules to be followed in

Internal Armed Conflicts which are often more brutal than international armed conflicts.”

Comm. Mamauag suggested that one practical implication of this challenge, if accepted, would be fair trial guarantees for “people’s court” of the CPP-NPA-NDF and other Non-State Armed Groups with “revolutionary justice system”.

To succeed

“We need clear-headed resolve to cleave to certain fundamental principles. We must show our determination to agree soon on a set of tools with which to respond to the challenge before us.

“The vast network of IHL advocacy in the country is very encouraging. The Civil Society Initiatives for International Humanitarian Law (CSI-IHL) is the most visible organization and is the co-organizer in this National Summit. Also recognized were other government agencies, non-government organizations, civil society and cause-oriented groups and individuals.

“By working along side these organizations, the efforts in the Commission on Human Rights are multiplied and magnified. This is especially important since the CHR lacks the resources required to carry out its mandate fully”.



Panel Discussions

TOPIC I:
SITUATIONERS FROM THE GROUND

Presenter 1:**ATTY. MARILYN PINTOR**

Director, CHR Caraga Region

Atty. Pintor began her topic with warm greetings to everyone saying “*Maayong buntag*” from Mindanao.

Her task was to present to the body the significant outputs of the different regional summits on International Humanitarian Law conducted nationwide by the Commission on Human Rights Regional Offices. Most, if not all, the regional summits were conducted the week prior to the National Summit.

She presented the common issues identified by the participants during the IHL regional summits. She hoped she would be able to give justice to the outputs of the other regional offices because she was only around during the regional summit of her region. She invited participants from her regional summit - the Provincial Social Development Officer, Mrs. Bajade and her colleague who are both from the Provincial Development Office of Agusan del Sur.

I. Common issues consolidated by the CHR Central Office staff

- Lack of education and information on IHL/ limited knowledge of IHL;
- The need for integration of IHL in the education system. This does not only refer to the CHR HR-IHL module but also in the regular school system;



- Non-observance and compliance to IHL by AFP, PNP, CPP-NDF and MILF as well as the non-observance of the Rules of Engagement. In the Caraga region, it is not a problem of lack of knowledge; but, this is the specific clamour of our participants that there is non-adherence or non-compliance to the IHL provisions; and
- Advocacy in the barangay/ community level.

II. Internal Displacement

- Women and children and non-participants of armed conflict are affected;
- No identified IDP camp and facilities;
- Lack of essential supplies like food, medicine and shelter for IDPs. These things are basic for the survival of human being;
- Burnt out feelings of volunteers and health workers assigned in IDP camps;
- Insufficient funds of government-mandated agencies to deliver basic services. For example, there is an ongoing displacement in Surigao del Sur. Now, there are agencies of government

telling that there is constraint on their part to provide assistance because the displacement is not caused by natural calamities. They are saying that their calamity fund is only intended for displacement caused by natural calamities; and

- No hazard pay for volunteers and health workers.

III. Humanitarian Protection

- Failure to protect life and dignity of civilian populace;
- Protection of the right of state actors/ vulnerability of state actors;
- Security. There is lack of security or insufficiency of security providing humanitarian assistance to persons who are not combatant; and
- Indigenous Peoples in risk prone position. Like in Caraga, the Indigenous Peoples (IPs) are, almost always, the ones affected by armed conflict.

IV. Militarization

- Presence of the Military in the areas;
- Military/PNP counter insurgency operations in risk prone areas; and
- The presence of the military in the areas create fear among civilians. And this will lead them to evacuate from their habitual places of residence.

V. Indiscriminate attacks

- Attacks on religious monuments and places of worship, cultural objects and other protected objects;
- Destruction of properties;
- Burning of houses (But no one can tell as to who were responsible for the arson); and
- Farms were left unattended due to

displacement. According to the IDPs, displacement usually happen when their crops are due for harvest.

VI. Civilians used as human shields/ endangering lives

- Civilians and children used as human shields by the NPA against government troops upon withdrawal;
- Civilians (non-combatants) in risk prone areas. There are allegations that soldiers are even sleeping and eating with civilians in their houses. This is a blatant violation of the Rules of Engagement;
- Use of children as soldiers and couriers and guides; and
- Use of protected areas/ places as refuge for the enemy for treatment of their wounded.

VII. Negative perception of the public towards AFP and PNP

- Decaying values;
- Adamant attitude of witnesses. Upon interview, they tell CHR investigators that they witnessed the incident. But when asked to sign a sworn statement or an affidavit, they would refuse for reasons of their own. And in most cases they say they fear of their lives; and
- Non-cooperation by civilians with AFP. But AFP says that if it is the NPA asking information from the civilians, they cooperate. And if it is the military asking for information, they refuse to cooperate.

VIII. Lack of legislation and policies on IHL implementation to address the issues

- Delayed passage of IDP and IHL Bills;
- The need to clarify the status of foreign nationals within the ranks of insurgents - lawful combatants or plain mercenaries? This can be defined by the Bill;

- The existence of the Kangaroo Court;
- No compensation of victims;
- Collection of fees regarding permit to campaign by party list groups from other candidates within their areas of control; and
- Lack of disaster preparedness. In most cases, the local government units (LGUs) have their own disaster plan. But there are LGUs, while equipped with their own disaster plan, the same does not include displacement due to armed conflict, only displacement due to natural calamities.

IX. The lack of Data Banking on IHL provisions and other related information

- Lack of disaggregated data on the victims and damages caused by armed conflict;
- The Barangay I.D. System. There are barangays which adopted the I.D. System; there are also barangays which are not applying said system; and
- Unavailability of personnel for interview.

X. There are crimes committed during armed conflict by both armed groups

- Hostage taking of prisoners and captives;
- Kidnapping of non-combatants, ICRC and civilians;
- The inhumane treatment of captured soldiers and civilians;
- The use of landmines to injure and even kill civilians and other non-combatants;
- Proliferation of unauthorized use of firearms;
- Extortion activities or the collection of the so-called revolutionary tax; and
- Unauthorized use of uniform.

XI. The Peace Process

- This refers to the suspension of the peace negotiation process.

XII. Violation of suspension of military operations

- This happens especially when there is a ceasefire agreement and there are parties to the agreement violating it.

XIII. Livelihood

- Due to armed conflict, the means of living of the civilian population are affected, if not damaged.



Presenter 2:
MR. YUL OLAYA
Mindanao Bantay Ceasefire

Mr. Yul Olaya thanked the Commission on Human Rights for inviting him personally to represent the Internally Displaced Persons (IDPs) in Central Mindanao. He discussed the “State of the Bakwits’ (IDPs) Address on July 23, 2009”. He stressed that the Internally Displaced Persons had been suffering from dehumanizing conditions



in the evacuation centers. There were many civilians, including children, who died. Many babies died due to dehydration and malnutrition and still others died of shock from mortar fires. Adults, especially elderly, suffered from various diseases.

POSITIVE DEVELOPMENTS

Mr. Olaya said that on the very day that "*Bakwit*" Power was launched, i.e. on July 23, 2009, the government declared Suspension of Offensive Military Operations (SOMO). On July 25, 2009, the MILF declared Suspension of Offensive Military Actions (SOMA). As an offshoot, in July of the same year, both parties came up with a joint statement which highlighted protection of non-combatants in armed conflicts. However, he said that those developments, the SOMO and SOMA, as well as the statements did not serve as guarantees for them to return to their respective places.

In August 6, 2009, collateral deaths and destruction of properties took place. A mortar was fired at a school and there were 8 children killed. This triggered doubts on the authenticity or efficacy of the SOMO and the SOMA. As a result, there were thousands of families who were displaced. At present, they are still living in evacuation centers where 50% of these IDPs are school children. In addition, it destroyed the educational activities of the schools that were struck by the mortar. Cited as example is, in Datu Piang where 10,000 school children were severely affected. Out of this 10,000 school children, only 4,100 are in schools and the remaining 3,000 are not in school.

THE RAPID NEEDS and DAMAGE ASSESSMENT (RNDA)

The victims declared the damages caused by that armed conflict. Their houses and boats, as well as

domesticated animals like pigs and chickens, were burned. Their appliances, like TV sets, were also burned.

ISSUES:

The Human Rights Violation Issues

Three major HRV issues need to be addressed:

- 1.) death of civilians;
- 2.) the burning of 1, 639 houses and properties; and
- 3.) economic, social and cultural rights issues like health and livelihood.

PRIORITY NEEDS OF THE VICTIMS

Mr. Olaya listed some of the needs of the victims which should be prioritized, as follows:

- To immediately conduct health surveys, including psycho-social survey especially among children;
- To increase the frequency of food rations;
- To immediately address the need of children for access to basic education and provide school supplies and school materials; and
- To decrease the number of deaths among *bakwits*.

CONCLUDING STATEMENT

Mr. Olaya posited six questions on IHL, to wit:

- 1) How can we enforce IHL in the Philippines?
- 2) How can we seek justice over the burning of thousands of houses?
- 3) How can IHL be helpful to the victims?
- 4) Can we file complaints on violations in Philippine Courts?
- 5) How can IHL stop the AFP from doing indiscriminate attacks?
- 6) How can IHL stop the dehumanizing conditions?

TOPIC 2:

GOOD PRACTICES AND INITIATIVES OF SERVICE PROVIDERS**Presentor 1:****PROF. MIRIAM CORONEL-FERRER**

Sulong CARHRIHL

Prof. Miriam C. Ferrer started her discussion by greeting each and everyone a pleasant morning. As she informed the participants, her presence was to share with them what the Sulong CARHRIHL has done. Sulong CARHRIHL is a network that is being put up to make sure that CARHRIHL, or the Comprehensive Agreement on Respect for Human Rights and International Law signed in 1998 by the Philippine Government and the National Democratic Front, would precisely live up to both parties' commitments.

As she briefly shared, there are two important realizations that they had in their work especially in local communities since the last 4 to 5 years. As stated, CARHRIHL was signed in 1998 but it was not really implemented by both parties. They agreed to implement it, but it was only in 2004 when they started to implement it, and that is the reason why they organized themselves.

The Realizations of Sulong CARHRIHL

Prof. Ferrer mentioned two realizations about their work. Beforehand, they decided to focus on the ground because that is the place where the fighting is. That is also where the two parties are. While the negotiations, the politics, happened at the national level and both parties observe the Agreement. With this, they invested a lot of their efforts in making it possible in some of the communities where they have established



partnerships and provided some of their basic services.

As its first important realization, IHL principles are not hard to explain and not hard to introduce because even though people in the communities do not know the concept or the name IHL or its Filipino counterpart, they actually know what it is all about. And that kind of knowledge, she continued, is based on their own experiences with the violence, their own sense of humanity, and their customary beliefs. As to customary beliefs, emphasized on indigenous communities where the fightings take place, in the uplands where the AFP is chasing the NPAs. She said that realization is important because they are just putting a name to what they already know, where they only share experiences in the other places. For instance, what Atty. Pintor had shared earlier, they also found out as very common experiences on the ground.

As she figured out, that kind of sense of humanity maybe, common sense of humanity - founded on

customary beliefs, maybe in the form of religious beliefs, whether Islam or Christianity. However, Sulong CARHRIHL does not really work in affected areas where the MILF operates but on the areas affected by the communist insurgency, or maybe in Christian areas.

It is not difficult to create an appreciation of and adherence to CARHRIHL at the community level, i.e. where the armed conflict is taking place. One simply has to: surface the community folks' customary beliefs, sense of humanity, and experiences on violence; and, juxtapose these with the ideals and principles of HR and IHL. One has to reframe the community folks' deep-seated beliefs along HR and IHL; thereby, establishing common grounds between their cherished beliefs and the provisions of CARHRIHL. And that common ground is easily formed and shaped by partnerships on the ground.

IHL Cannot be Advanced by Individuals Working Alone

The second realization is that IHL cannot be advanced by individuals working alone. There must be community organizations to do this -- whether it is a tribal organization led by council of elders; whether these are through people's organizations, sectoral groups that are also being formed, or precisely the different service providers, NGOs and the church which have very strong presence in the remote communities. She further stressed that without said structures in place, it would be very hard to negotiate for what might be very simple. In reality, the most common concern at the community level is whether a military detachment should not be put up near the school or even near the church or near public places where a lot of people converge. That kind of negotiating and engaging with the parties to the

conflict would require an organized community, aware of their rights, because awareness is very important. Our communities have found that if they ask the AFP or the NPA if they know of IHL or they know CARHRIHL then that makes the other party behave better. These people know that that kind of knowledge already provide some kind of a shield or protection.

This conforms with some findings about rape. If a person knew that rape is wrong, and if you fight it, then it is less possible that one will be raped. He or she can be killed as well. As shared by her, statistics show that if you fight off a violation that is about to be committed against you, then you will be able to somehow prevent it. So that kind of awareness in having the organizational structure to engage the two parties is very, very important.

Prof. Ferrer cited as an example the ceasefire with the GRP and NDF. However, in the case of the GRP-MILF ceasefire, the same was broken down, hence an all out war is taking place except for the fact that recently, the two parties have agreed to start negotiations.

CARHRIHL is Basically a Very Weak Mechanism

A third realization with regard to the CARHRIHL is - it is basically a very weak mechanism and has no political will to implement. For most part, violations and accusations also assume a political character - meaning objectives based on propaganda goals of either party. And for them, they try to issue a kind of approach which is the dialogical approach. Dialogical - meaning, the aim is to convince the parties to observe and be true to their commitments under the agreement they signed and, under International Humanitarian Law and International Human Rights Laws.

“If you haven’t heard about us before, if you don’t read us in the newspaper, it is because this is not the arena where we want to build our strength. Of course we want that the public discourse to be very, very high. That is also important as one of our strategies, to generate that kind of awareness and discussions about what is IHL, what is CARHRIHL, who are violating, who has not exercised transparency and accountability. But in the final analysis, the strength really is, on how strong the communities are in advancing and making both parties comply with the agreement.”

As explained further, the dialogical approach is important. Although at times there are specific violations, then they do adopt the confrontational approach. But what is in the dialogical approach that makes these changes possible? One is, their belief or notion that influences the peace negotiations. That they should undertake peace negotiations in order to transform relationships - from a relationship of hostility and violence to a relationship of partnership and coming together with a common realization that all of us (every Filipino) have the same future.

The Significance of the Dialogical Approach

As stated by Prof. Ferrer, using the above-mentioned framework, the communities have been able to extract specific Memorandum of Agreement (MOA) with local commanders on the ground where they do not need to sign complete CARHRIHL altogether but pick out elements of CARHRIHL that are specifically relevant to the conditions that they have. For instance, one MOA that was signed between the Federation of Mangyan Leaders and the Local Command in Mindanao was used in Mindoro Occidental with regard to certain brutalities before the arrest of suspected Mangyans or the IPs in the community.

In that MOA, one of the agreements pertains to the manner by which any arrest shall be conducted by the military of any suspected NPA sympathizer among the Mangyan community. It stipulates that prior to the arrest, the local church will be informed first so that no harm can be done to those persons. This would prevent disappearances and/or torture.

Strengthening Capacities of Communities

As earlier mentioned, Prof. Ferrer is also interested in generating a public discourse on HR and IHL which should be of a very, very high level. Sulong CARHRIHL seeks to strengthen community capacities to directly seek redress for any of their grievances and work on modalities for CARHRIHL observance. Research and analysis are the two major aspects of the work of Sulong CARHRIHL. These are supplemented by their advocacies for the legislative, peace process and other issues.

Pushing for the Ratification and Enactment of HR-IHL Laws

The Sulong CARHRIHL is also one with various other groups who are pushing for the ratification and the passage of national legislations on HR and IHL and specific intervention and sector based approach. In sector-based approach, they try to integrate the different operative framework, such as that relative to children. For instance, they have the whole body of laws and codes with regard to the children’s rights where many of these elements are in CARHRIHL and also in the Children’s Rights Convention, Indigenous People’s Rights Act and so on.

Presentation of Photo Documentation

Before she ended her discussion, Prof. Ferrer showed some photographs of the Mangyans, who were in a role-playing session. The Mangyans acted out their own encounters with the government and the NPA and spontaneously

showed their practice in negotiations among themselves. This was undertaken in one of the fora that they held with General Cabuay after an encounter. From the negotiations, the community was able to seek certain measures, such as compensation for damages of farm products that were ready to be harvested when the conflict

began, and with regard to loans secured in order to plant but plants were not harvested.

Prof. Ferrer ended her statement by expressing her thanks and assured that they (the participants) have a lot to learn from each other. Finally, she said that this is just the beginning.

Presenter 2:

MS. LAN MERCADO

Country Director, OXFAM

Ms. Lan Mercado shared the OXFAM's experiences on the situation in Central Mindanao since the all-out war in 2000.

The OXFAM Organization

OXFAM is not just a service provider but an international organization working in more than 80 countries all over the world. It is a development organization as well as a campaign organization whose organizational identity, the work that they do in the Philippines, form as a task force. For them, IHL and the situation in Central Mindanao is a humanitarian endeavor where they aim to alleviate the suffering from extreme form of poverty of their clients.

OXFAM's Concern on IHL

With its humanitarian concern, the emphasis of their work is to **protect civilian populations** who are affected by war. They are not only concerned in conflict situations, but also in situations of natural disasters. Among the recipients of their services are the members of the State and non-State armed forces or armed groups who are also entitled to certain forms of protection. The international standards are subscribed to and



promoted, in the absence of a national law. Essentially, all of their activities are aimed in ensuring full respect for the rights of an individual in accordance with international standards.

The Humanitarian Protection

OXFAM, with its work on humanitarian protection, subscribes to international standards. The other important aspect of humanitarian protection strategies is services or humanitarian protection advocacies that are conducted in an impartial manner. While its work is around humanitarian protection, OXFAM challenges the warring parties and the government to respect and uphold IHL and the core Human Rights instruments whether in conflict situations or natural disasters. In the absence of local capacity, OXFAM determines whether they would intervene

directly in order to achieve the desired standards of protection and achieve the multiple protective system. This can be achieved through the following:

1. Advocacy Campaign - Persuade those who are responsible to keep their obligations;
2. Support the responsible bodies so they can perform their responsibility; and
3. Partner with other organizations, primarily with local population or communities who are heavily affected by other disaster in order to access the protective system themselves.

OXFAM has been working in behalf of the Philippine NGO network, a huge coalition of international NGOs who are rendering services in conducting advocacies to protect civilians who are caught in armed conflict or in the cycles of disasters.

Also, OXFAM is working in cooperation with local organizations -- the Mindanao Peace, Mindanao People's Caucus and Mindanao Anti-Ceasefire. Likewise, OXFAM is working closely with CSI-IHL, and the Parish of Pikit, government offices like the Department of Social Welfare and Development and the Department of Health, and with bodies or IAC Standing Committees.

Protection of Internally Displaced Persons

OXFAM's protection activities for the IDPs are focused on the following:

- 1.) Personal violence, which includes not only those who have been caught in the cross-fire but also those who are emotionally wounded who need social intervention;
- 2.) Protection of civilians from deprivation, impoverishment, disposition, destitution, disease and exhaustion;

- 3.) Humanitarian protection is protection from the restriction of movements or access particularly on the livelihood sources. As often observed by OXFAM, the incidents happened due to coercion and fear.

The Response to the Call for Action

Noted was, the intensification of the armed conflict in Mindanao started in August 2008. A total of 438,000 persons were displaced in Mindanao. The displacement covered the Sulu archipelago, affecting 88,000 families. The most recent response of OXFAM in Mindanao has been focused on the right to life and dignity of IDPs and protect them through life saving and humanitarian assistance. This is specifically addressed by those who are legally mandated to deliver assistance like the government agencies, UN agencies and also organizations like international NGOs. OXFAM assists also in protecting impartial States by delivering humanitarian assistance. It is lobbying for the enactment of IHL and IDP Bills.

As one major activity, the Evacuation Part-time Management Committee is organizing the IDPs, or simply the Empowerment of IDPs, so that they can represent themselves and have a voice and access to service providers directly.

Concluding Statement

It is important to note that sometimes emergency responses are too short and humanitarian protection really requires a lot of time. Contingency plans need to include protection. It needs direction during armed conflict situation. It is important that someone from the committee itself should be present to be able to address the problems and concerns of the IDPs. Humanitarian advocacy must serve not just to follow change but it must serve to save lives of the IDPs.

TOPIC 3:

INTERFACE BETWEEN INTERNATIONAL AND DOMESTIC LAWS ON ARMED CONFLICT**Presenter:****ATTY. SEDFREY M. CANDELARIA**

Chairman,
Government of the Republic of the Philippines-
Joint Monitoring Committee/
Dean, School Affairs, Ateneo de Manila,
College of Law

Atty. Sedfrey Candelaria explained to the body the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL).



CARHRIHL is a document which arose out of the peace negotiations between the government of the Republic of the Philippines and the Communist Party of the Philippines/New People's Army (CCP/NPA) and National Democratic Front (NDF), and signed in 1998. CARHRIHL is not a treaty but it is one entered into between a State and Non-State entity, thus, not being covered by the Vienna Convention on the Law of Treaties. It is not a law; but, it may be a source of political commitments - political commitment particularly on the side of government. It could have legal consequences for the government because the government is a State Party to various Human Rights and Humanitarian Law Instruments, and the government is duty bound to enforce the obligations. It is the interface that Atty. Candelaria would like to focus on because the interface is not so simple where people now look at the ground on how enforcement may be done in accordance with the legal and judicial processes. There were reservations from certain parties, such as: how can you enter into an agreement with a non-State entity; and, what are the consequences for this?

Issues of Belligerency and IHL Applicability

Another matter emphasized by Atty. Candelaria are the issues of belligerency which at one time beleaguered the peace process. He noted that even international decision would have recognized that even in the context of an armed conflict domestically, IHL principles must apply. At the context of the document itself, there are respective legal processes that are involved.

Below were the questions asked:

"First, what standard of justice or due process will apply to the CPP/NPA/NDF People's Court?"

"Next point is - processing of complaints against State agents and government duty and obligations. How far could complaints against State agents be processed by the government through its own legal and judicial processes?"

In this regard, he stressed political will. The most recent examples of extra-legal killings or extra-judicial killings and enforced disappearances placed the government under scrutiny by the fact-

finding mission of Prof. Philip Alston. The government has to address these killings and disappearances as part of its duty and obligation under both domestic and international law.

Responsibility of Non-State Actors

Atty. Candelaria said that Prof. Philip Alston emphasized in the latter's report that *"even in the revolutionary justice system, the NPAs must meet international standards"*. It was clear that the Special Rapporteur was talking about the responsibility of a non-State actor in this setting.

Witness Protection

The third point is, how do we protect witnesses in the context of CARHRIHL and the complaints mechanism. This is a matter that will need enhancement, strengthening and creativity. The Supreme Court Rules on the Writ of Amparo provides a complementary mechanism, which identifies safe havens or sanctuaries provided by NGOs. The initial problem was there was a requirement to go through in the accreditation system.

The fourth point is the possibility of the third party monitor, who will monitor even the process of

complaints mechanism instituted by the GRP in the nominated section of the National Democratic Front.

Concluding Statement

Atty. Candelaria made the following conclusions on the above-discussed interface:

- 1) The GRP could and should make available its legal and judicial processes for the purpose of addressing complaints.
- 2) The Joint Monitoring Committee is a tool at leveling the fielding of the exchange of filing of complaints including the information and data collected.
- 3) CARHRIHL is not and cannot be a permanent mechanism.
- 4) The fourth one that I would like to refer to the **Commission on Human Rights**, is the *Barangay Human Rights Action Center (BHRAC).

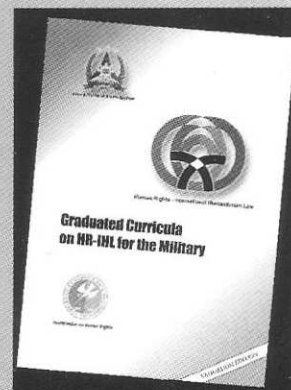
There had been efforts on the part of the government to put up Local Monitoring Bodies with some Local Governments. Are the Peace and Order Councils effective instruments in this regard?

* The Barangay Human Rights Action Center, or BHRAC Program has been the flagship program of the Commission on Human Rights since 1995. It started as a social/action research in 1994 that studied the possibility of organizing community-based human rights volunteer workers. As a flagship program, BHRAC's ultimate goal is to empower and mobilize community-based human rights advocates to take up the cudgels for human rights promotion and protection by themselves, and at the same time, to bring the services of CHR to the grassroots level. In a sense, BHRAC is CHR's national grassroots human rights advocacy program that facilitates the building up of a culture of human rights in the Philippines.

BOOK LAUNCHING

Graduated Curricula on Human Rights and International Humanitarian Law for the Military

The Book Launching on Human Rights and International Humanitarian Law for the Military was led by Comm. Cecilia Rachel V. Quisumbing. Briefly, she informed the body that under the Philippine Constitution, the Commission on Human Rights has a mandate not only to investigate human rights violations, but also to conduct education and research and training on human rights matters.



Considering that International Humanitarian Law is so closely tied to human rights, the Commission has put up an IHL Division in the HR Education and Research Office.

Representatives from various government and non-government offices were called on stage to receive their respective copies of the book.

Director Ana Elzy Ofreneo introduced the book. She said that these Curricula are a work in progress. These curricula are subjected to review periodically to determine its responsiveness to the demands of relevant stakeholders and to the crying needs of the times. Also, the curriculum has to keep pace with domestic and international developments.

There was no model for HRE either for the military or for the police and other arresting and investigating personnel. In 1988, CHR produced its General Human Rights Education Curriculum. The main initial bases in crafting this original CHR-HRE curriculum were the 1986 Presidential Memorandum Order No. 20 and the 1978 UNESCO document. M.O. 20, issued by former President Corazon Aquino on July 4, 1986, defined the mandatory content of human rights education for arresting and investigating personnel.

The 1978 final document of the International Congress on the teaching of Human Rights defined the 10-point Guiding Principles and Considerations in the Teaching of Human Rights.

Director Ofreneo expressed her deepest thanks to the International Committee of the Red Cross (ICRC) for their indefatigable assistance, cooperation, consistent and warm support to all education initiatives of the

Commission on Human Rights. She said that ICRC has always been ready to partner with CHR and to share its expertise on IHL since the program was conceptualized. For instance, ICRC agreed to co-organize with CHR the first National Training of Police Policy-makers in 1987 and the first National Training of Military Trainors on HR-IHL in 1989.

She thanked most especially the Committee on Education and Training of the National Inter-Agency Chamber of Human Rights (CET-NIACHR),*

CET-NIACHR developed in 1995 the first set of Graduated Education Curricula on HR and IHL for the pillars of the Philippine justice system. Needless to say, all the other pillars of justice have their own Graduated Curricula on HR-IHL. The curriculum writers coming from the CHR, DND, DOJ, DILG and its attached agencies reviewed and extensively used the 1988 CHR General HRE Curriculum as well as the ICRC's POI on IHL.

After 14 years of use, the first Graduated Curriculum on HR-IHL Education for the Military was reviewed and revised in May 2009 by all the military officers who are in-charge of the career courses and the education and training of the land, air and naval forces as well as the military academy.

All their outputs are now incorporated in the validation edition. This book is such validation edition.

She also expressed her thanks to the United Nations Children's Fund (UNICEF) who funded the project in May 2009, and to the Swiss Embassy that gave funds to print the validation edition.

**The National Inter-Agency Chamber of Human Rights or NIACHR was jointly and severally organized by the Commission on Human Rights, the Department of Justice, the Department of National Defense, and the Department of the Interior and Local Government, by virtue of the Memorandum of Agreement that they signed in Malacañang on 7 February 1995. CET-NIACHR performs the following six key results areas: curriculum development, faculty development, materials development, special events management, planning and programming, and monitoring and evaluation.*



Open Forum



OPEN FORUM

COMMISSIONER CECILIA R. V. QUISUMBING chaired the Open Forum.

Atty. Jose P. Perez:

Atty. Perez, Court Administrator of the Supreme Court, reported that the Supreme Court, together with the ICRC, has been conducting a Photo Exhibit and Information Caravan on the International Humanitarian Law and Justice to various places, such as: Quezon City, Pasay City, Pasig City and Lapu-lapu City. In addition, they will be conducting the same exhibit at Davao City, Angeles City and Laoag City. Its purpose is dissemination of IHL.

Question No. 1

Comm. Quisumbing:

Commissioner Quisumbing asked Ms. Mercado on OXFAM's policy on the importance of impartiality which would mean a non-taking of political chances. She asked: *"what then would be your recommendations for the Philippine context where we do see unfortunately many civil society organizations and individuals who are not only advocates of human rights and IHL causes but also have causes of very political nature and who have said openly and publicly that they are opposing the current administration. What do you think is the effect on the advocacy for IHL compliance?"*

Ms. Lan Mercado, OXFAM Country Director:

"Perhaps I will begin answering the question by explaining what we mean by impartiality. To us, when we speak of impartiality, we refer to the fact that we deliver services, we do not distinguish whether you are a Muslim or a Christian, whether you are aligned with, or you

have a relative who is a member of MILF or a member of the military or the police. When we speak of impartiality, that is really a standard that guides our humanitarian response and that we only focus on the humanitarian needs. We do not pay attention to the political affiliation of the IDP. We do not pay attention to their religious affiliations as well. Our main focus is really, if a person is a civilian, and if that civilian individual is in need.

"Of course, when you are doing particularly humanitarian advocacy, it also becomes very important what your analysis is. And that's why to us, the conduct of protection threat analysis is, the first step which basically draws out what are the threats to the basic human rights, the threat to the dignity, safety and even the economic well-being of civilians. That's our starting point.

"When it comes to taking sides in political conflicts, OXFAM itself takes a neutral position. We make sure that nothing that we do can be interpreted as favoring one side over the other. So we really abide by those two principles of neutrality and impartiality."

Question No. 2

Participant:

"What institutional bodies will implement IHL in particular? I want to ask what powers must these institutional bodies possess to implement IHL and held IHL violators accountable? In particular, I can still recall the conclusions made by the Melo Commission in which they said, that some officers

of the Armed Forces of the Philippines are responsible for extra-judicial killings. What happened there? "

Answer of Comm. Quisumbing:

"What happened there is that, there were some initiatives that were taken. We are still waiting to see what fruits they are bearing. I am asking you, what exactly you mean in terms of the powers of institutional bodies, can you be more specific about the actual institutional bodies you mean?"

Follow up question from the same Participant:

"Are these powers only recommendatory?"

Comm. Quisumbing: "Which institution?"

Participant: "Bodies like the CHR."

Comm. Quisumbing:

"Okay, you have mentioned the CHR, you have mentioned the Melo Commission. So we have concrete examples when we talk about those. The Melo Commission was established for a very specific mission and they have no power to enforce. They were only meant to look into, to report and to make recommendations. Very clear.

"The CHR powers as you know, in the Constitution in Article XIII, Section 18, are very specific, quite limited. We admit, we have no teeth, we have a mouth, we use it. We report, we investigate, we nag, we advise, we hold fora like this. We do not have powers to execute. We do not have judicial powers. We cannot then put into action what it is that we have said. However, because we are recognized as credible and independent, and because we look at non-

state actors as well as state actors, we do expect that our pronouncements should be listened to and hopefully implemented. And if they are not implemented, we will just continue to report that they are not being implemented. Those at the local level, you know that media is a very good partner in terms of reporting the CHR pronouncements, but for instance, next week I am going to Geneva to speak on the Philippine situation before the Committee on the Elimination of Racial Discrimination."

Professor Miriam-Coronel Ferrer:

"I guess we all know how hard it is to get justice after human rights violation has been committed and that has something to do with the witnesses in our criminal justice system, our state institutions and so on. And that is why we were asked, one of the most important interventions is preventive in nature. And that kind of preventive interventions would be along the lines of trying to generate awareness so that the armed parties do not commit this. And for people to actually demand that both parties observe international humanitarian law.

"But there are also certainly other mechanisms by other institutions that are in place in the communities. We know that in other indigenous communities, they have tribal courts. They have their own courts of justice. And I am happy to tell you that they are able to extract accountabilities using their court of justice against the NPA, against some AFP soldiers as well whether it involves the payment of some blood money or retribution or some apology that has been extracted from these parties. And largely because they follow their own courts, they have their own organization. And the legal and the peace negotiation framework certainly has

also buttress that claims that they are asserting from a party that has committed one violation.

“To give you one example, a tribal community in Abra has decided that no armed group shall enter without permission within this community. And when the NPA violated that they will engage the NPA in a meeting and the NPA actually pay P5,000.00 for that violation. The same is true when some soldiers are involved in some case. In Kalinga for instance, a tribal community managed to prevent the escalation of conflict because according to customary law sometimes the resolution is by retaliatory killing. But to a certain extent that has also been adjusted through other forms of retribution.”

Comm. Quisumbing

“What a wonderful example, Professor Ferrer. I think this is also in the light, because we are talking about how the indigenous people are affected, to look at them as victims. Here, and partly thanks to the IPRA where we actually give title to the indigenous communities. They can enforce these resolutions and therefore be very active enforcers of peace and IHL.”

Question No. 3

Mr. Enrique Garcia, DILG:

“First of all I would like to thank the presentors for their fine presentations. I hope we can all have a soft copy of your presentations.

“I would like to speak now as a private citizen rather than in behalf of the bureaus of DILG. There was a suggestion earlier by Atty. Candelaria about making use of the Barangay Human Rights Action Center (BHRACs) in the peace and order council at the local level. I do not know whether a modification has been done

in the peace and order council at the national level. And the orientation is now towards development and the inclusion of various sectors other than government agencies into the committee of councils. So, there is an improvement in that regard.

“Now, much towards states and shagging battles keep on going on in Mindanao and some areas by cessionists and insurgent groups. And IHL is there to a sort of temper the conflict. Much as we want to put a stop and target for peace, the shorter end of the stick always fall on the security forces of the state. And there is a suggestion here by Lan Mercado on the forging of a certain Memorandum of Understanding. But these are all targeted between civilians, the CSOs and the military. And little by little, the military finds itself in a tighter fix every time there is a MOA or restrictions of actions on their part. And there is no control on the other party from going to those MOAs, or controlling their actions as far as warfare is concerned. Thus, our military men are; put in a tight situation. It would be tighter to them if there are MOAs, the more MOAs, the more violations. So, how do we get out of that quandary?”

Comm. Quisumbing:

“Thank you very much, Mr. Garcia. Lan...?”

Ms. Lan Mercado:

“I think we need to clarify our starting point. If you are referring to an experience in Central Mindanao, for example, the Memorandum of Agreement, I am not sure if you are referring to for example, the phases of peace agreements which the communities themselves have with the conflict actors. That is something, I think, that should be lauded because in Central Mindanao,

communities do assert Memorandum of Understanding such that, that takes the forms of spaces for peace not just only for the Armed Forces of the Philippines but for the armed groups.

“Now, the most recent developments which I think the most fragile is the declaration of SOMO and SOMA of both parties. I think that is what we need to focus on at this point. What I would like to mention following the declaration of SOMO and SOMA, the government is now planning for the return of evacuees. This is now, in fact, the main topic that is being discussed among Civil Society Organizations. What is going to happen when the government plans the return of evacuees and making sure that this return of evacuees happen – 1) in a voluntary manner; 2) in an orderly fashion, and 3) that the returns are sustainable. Now, the key element in sustainable returns is of course the safety of civilians. And even then it will become paramount, that kind of understanding between communities and armed groups.

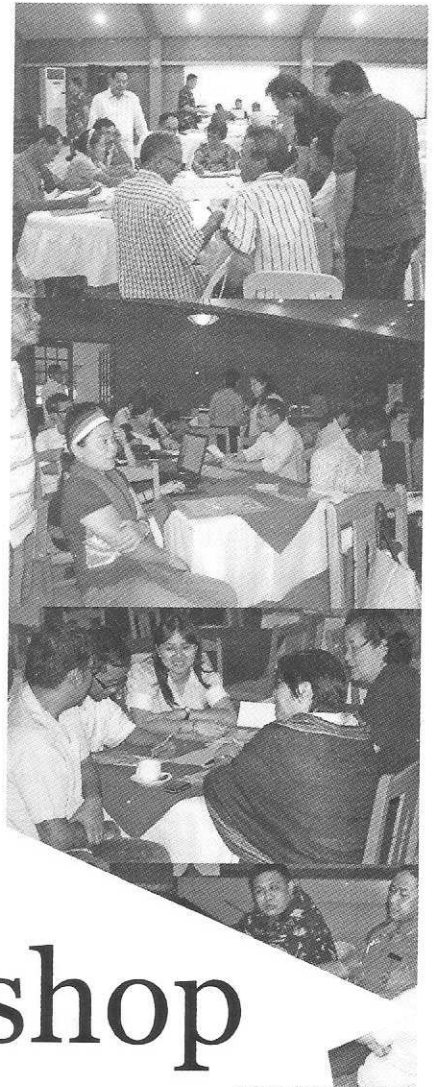
“In one meeting that we had in Central Mindanao, where we had the officers of the 6th Infantry Battalion and where we explained the importance of IHL and its application particularly in making sure that the IDPs themselves have the right to negotiate safe places for themselves. They did not feel that they were receiving the short end. I think it was an opportunity for mutual understanding. Because, initially the leaders of the 6th IB who were assigned in Central Mindanao thought that this evacuation camp management committees of IDPs were meant to make direct complaints against military itself. After the dialogue has successfully been concluded, I think it established mutual trust and mutual terms of reference in terms of the conduct of all parties in Mindanao.”

Prof. Miriam Ferrer:

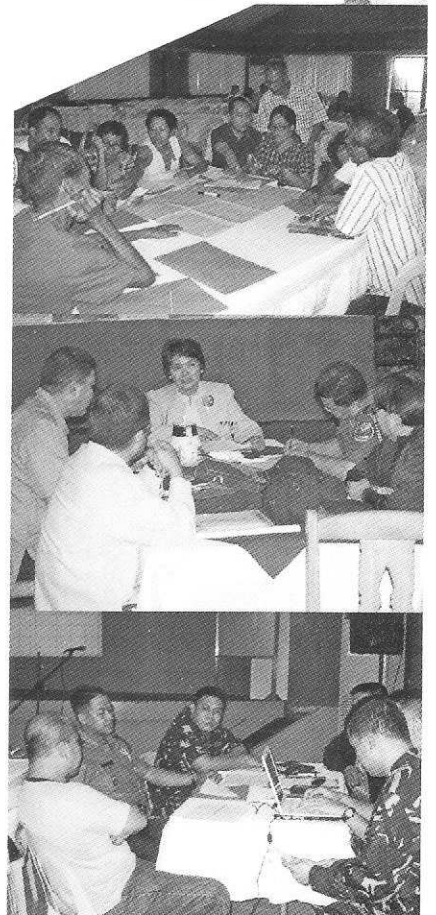
“I think the real question is, what do you do about the armed groups because it is easy to run after the state agents because they are visible. With regard to the armed groups, how do you enforce the IHL? And secondly, that has always been asked, and the premises are really true. I think we will have to go beyond the formal institutions for these. We all know that war is being waged in the name of the people. That it is being waged with the claims that it has for the public’s hearts and minds. So when the armed groups realized that the space is constricting in the community precisely because of the violence that surround that kind of condition, then it makes them think how they behave. So it can happen, let’s say in a Mangyan community, they will be telling the armed groups – please stay only one night, otherwise, we might be the ones to leave. Mangyans are known to be mild people unlike some communities they usually flee instead of ... But it is a statement that forces that kind of thinking with regard to the whole concept of an armed revolution to be able to change our society. “So I think that event of paradigm shift might happen in the armed groups to really seek out more peaceful means in order to advance their social agenda. But it is a process that requires a step by step and from small communities to bigger communities.”

Comm. Quisumbing:

“We are going to break for lunch now but before that we are going to give you the workshops mechanics. Thank you very much to all our panelists who have come from different places as far as Mindanao. We hope that you can all stay for the actual workshop because all the recommendations will be submitted to all reactors, the state and non-state actors.”



Workshop



WORKSHOP

PRESENTATION OF WORKSHOP MECHANICS

Ms. Karen Tañada:

"We hope to enrich those discussions later in the workshops. There are supposed to be 8 workshop groups. There will be sign-up sheets during lunch where you can sign up for the workshop you wish. Those workshops will be: 1) Civilian, particularly the IDPs; 2) Other vulnerable groups such as indigenous peoples and other population that are not displaced but vulnerable to armed conflict; 3) Basic services and cultural object utilities; 4) Soldiers out of combat, medical personnel, equipment and installation; 5) Promotion; 6) The principle of distinction in IHL 7) Harmonization, development of international and domestic law; and 8) Limitation of methods and means of warfare. There will be facilitators that we will point out to you after lunch. And there will also be documentors for each workshop. So please sign up under those workshop groups of your interest. There will just be two important and brief questions to answer: 1) What are the challenges and gaps that you see with regard to these issues?; and 2) What will be

your recommendations with regard to action and policy? Dir. Elzy Ofreneo will tell you the venues for your workshop."

Dir. Ana Elzy E. Ofreneo:

"You can kindly sign up at the registration corner. We advise our registrars to prepare 9 registration sheets wherein we can sign up for the break-out groups. At the back of this stage are three function rooms. The rest, we can divide this Hall into 5 break-out groups. Thank you very much."

P.M. SESSION -**Ms. Karen Tañada:**

Ms. Karen Tanada requested all groups to start with the reporting. She suggested that they just run through with all the reports first and give time for questions and reactions later. In addition, she told them to feel free to write down all their questions with regard to the reports presented so that after all the presentations, they can have time for any additions or questions on the reports.



PRESENTATION OF WORKSHOP OUTPUTS

Group I

DISPLACED CIVILIANS IN ARMED CONFLICTS

Rapporteur: **Ms. Cecille de Joya**

Ms. De Joya presented her group's report.

Gaps and Issues:

- 1) There is not enough attention given to Internally Displaced Persons in Communist Party of the Philippines/New Peoples Army areas. This means that there is a little gap between addressing the issues. Those areas in Mindanao as compared to the areas where the armed conflict between the NPA and military with less attention.
- 2) Lack and sometimes absence of basic necessities and services. This means the pre, the actual and the post basic services that should be provided to the victims in the communities affected by armed conflict.
- 3) Security and protection including the material security.
- 4) Children in armed conflict and issues regarding gender violence. There are also incidences of gender-biased occurrences in evacuation centers.
- 5) Lack of competent government action. This has been a perennial problem. Unlike other disasters, like the natural disasters, the government has complete structures and mechanisms to address these displacements. But due to the armed conflict, it seems that the government has a pragmatic approach on how to address the issues of the internally displaced persons who are affected by armed conflict.
- 6) Lack of legal provisions and subsequent implementation of laws that will be in place.

Cited as example is the issue of CARHRIHL, where the Moro Islamic Liberation Front do not adhere to the Memorandum of Agreement. So, their recommendations are focussed on development, institutionalization of systems and structures for the protection of IDPs.

Recommendations:

- 1) Passage of IDP Bill and IHL Bill into laws that will address the issues. This means the identified gaps are assured to be protected;
- 2) Education to spread information and knowledge:
 - a. using CARHRIHL to raise the issue of IDPs and their protection in areas with Government of the Republic of the Philippines-National Democratic Front conflict;
 - b. develop people's initiatives;
- 3) Reiteration of what organization have been doing with regard IDP issues, such as:
 - a. continuously working and coordinating with the agencies like the Department of Health and Department Social Welfare and Development;
 - b. propose agreement with the National Disaster Coordinating Council (NDCC), which was the capacity, on continuous monitoring of the situation.
 - c. expand IDP protection network and supporters; and
 - d. make some noise which would propagate or make the issue of IDPs it self in evacuation centers;

- 4) Advocacy campaign and call to security forces; changing their cultures and build partnership. It was then noted that the book which was launched by the CHR really helps in this aspect.
- 5) Document economic, social and cultural rights involving IDPs. Since there are issues that have been violated in circumstances of displacement, the rapporteur asked if the CHR

can document those kind of violations involving economic, social and cultural rights of IDPs.

After the report, Ms. Tañada requested the members to stand up so as to be recognized. It was noted that Group I has a hanging question at the end of their report which the CHR will answer later.

Group II

PROTECTION GROUP – VULNERABLE GROUP, THE INDIGENOUS PEOPLE

Rapporteur: **Ms. Auxilium “Inday” Toling- Olayer**

Balay Rehabilitation Center, Inc.

Ms. Olayer immediately introduced her group members. They are: Ms. Evelyn Dunuan of National Commission on the Role of Filipino Women (NCRFW); an IP from the Cordillera; Daisy Valerio from the Nilo Valerio Foundation from Abra, Yuwen Abana from the Partido ng Manggagawa; labor and women’s group; Arturo Catarata from the Office of Congressman Tanada, Committee on Human Rights; Agnes Rio, also from the Balay Rehabilitation Center; and Yul Olaya from Bantay Ceasefire and herself from Balay Rehabilitation Center.

Gaps and Challenges

The group has identified three major challenges and gaps in protection. These are:

First, the IPs are seldom persuaded to transfer to evacuation centers. Most of them would prefer to stay in their communities. Some are transferred to other communities to avoid armed conflict. But those IPs who remained in their communities and refused to transfer to evacuation centers are usually treated as enemies of the State. They are

also caught in the crossfire and are considered collateral damages in the conflict. This is one of the gaps during armed conflict that should be looked upon in the light of implementation of IHL.

Second, the Indigenous Peoples are those left behind in the communities and are not being prioritized in terms of provision of relief and support. They are the last ones to be given help. On this issue, she confirmed that the incidents were really happening as they were visiting the various areas of two recent armed conflicts in Mindanao. What happened was, they were scattered in different evacuation centers. Some of them refused to be mixed together with Christian groups. Thus, they opted to build their dwellings along the highways.

The IPs claim on Ancestral Domain

If the IPs declared their communities as peace zones and are considered ancestral domain, this should be respected by the warring parties. However, their communities and ancestral domain were being ravaged and devastated by war

because the military would make justifications like *“war has no bounds”*.

With this, they urged that IHL should have a provision on due respect of the IPs’ ancestral domain.

Recommendations:

First - Ratification of the Rome Statute

Since the armed conflict is a continuing conflict, it is also among the concerns of the International Criminal Court (ICC). After exhausting all the remedies available from the local courts, it should be brought also to the ICC. However, there is a problem because the Philippines has not yet ratified the Rome Statute notwithstanding the existence of armed conflict for a long time already. Thus, those cases of violations on IHL could not be filed even in our local courts because there is no law yet on the ratification of Rome Statute.

Second – Assessment of the IHL compliance

The government and other warring parties must review their compliance and observance of the signed IHL obligations. It was noted that apparently, more violations were committed by the military and police. On the other hand, there are also violations by other state actors and non-state actors like the NPA. Thus, it is recommended that the government and non-state actors should assess on how they comply with the IHL obligation.

Third - Monitoring of IHL Compliance

Another proposal is to undertake intensive and comprehensive monitoring of IHL compliance during and after conflict. In relation to this, a monitoring team should be created, with adequate

and necessary mechanisms to ensure full monitoring both at the national and local levels.

Fourth – Remove Restrictions to the Media

By removing restrictions to the media, the real situations in the armed conflict areas will be reported to the public, specifically in Mindanao. There were times when deaths in war zones were not reported due to the absence of media. Movements of media should not be restricted in times of armed conflict.

Fifth – The Role of the Civil Society Organizations and Human Rights Defenders

The Civil Society Organizations and the human rights defenders should be active and should not be restricted of their movements. She informed the group of her experience, that they have been witnessing food blockade wherein the service providers had difficulties in delivering food and other supplies to the armed conflict areas.

Sixth – Respect for the Rights of Women and Children

Highlighted also is the respect for the rights of women and children in the conflict area and territorial areas of Visiting Forces Agreement (VFA). As reported, they came up with a research on the situation of women in these conflict areas. It was also reported that there were so many women who were molested and impregnated and then eventually left by these soldiers of the VFA.

On the other hand, the IPs must empower themselves continuously. Empowered IP communities could get more attention on their demands for support and respect as compared to those who are not empowered. They are left behind because their voices are not being heard.

Group III

PRINCIPLE OF DISTINCTIONRapporteur: **Eleanor “Jun” Ledesma**

Information Officer, CHR Caraga Region

The group is composed of CHR personnels, including Commissioner Jose Manuel S. Mamauag.

Mr. Ledesma discussed the principle of distinction where it distinguishes between combatants and civilians and between military objectives and civilian objectives.

Gaps and Issues**Absence of Domestic Law and Policy**

The first issue is the absence of domestic law and policy that distinguishes civilians from combatants. This is the priority issue because under the international treaties and covenants, the Philippines is required to enact laws and to adhere to whatever documents it has signed. So the group's recommendation is to lobby for the passage of the IHL Bill.

The Use of Weapons that Do Not Distinguish Civilian Objectives from Military Objectives

The second point or issue, is that in case of doubt, persons should be treated as civilians. Examples of these weapons were landmines, booby traps, and anti personnel. Once these weapons are launched, they do not distinguish combatants from civilians. These children who are playing in the farm can be victimized as well as domesticated animals.

The recommendation is to lobby for the ratification of the Rome Statute and to criminalize those who use the weapons that do not distinguish them.

Protection of Children Who are Used as Combatants

Non-compliance on the protection of children combatants. Military forces from both government and non-government failed to comply as regards protection of children who are used as combatants. As explained, children should not be as soldiers during armed conflict. So a special protection is given to them like the Republic Act. 7610 “Special Protection of Filipino Children”.

The recommendation is, cases of IHL violations in relation to the protection of children during armed conflict should be investigated, prosecuted and well-documented.

Indiscriminate Attacks

This includes attacks on religious monuments and places of worship, cultural and protected objects.

Burning of Houses and other Properties left Unattended

These areas should not be attacked. The recommendation is - conduct a dialogue between and among the conflicting parties to adhere to the principles of International Humanitarian Law.



Group IV

LIMITATIONS ON THE CONDUCT OF WARFARERapporteur: **Mr. Nikki Delfin, PhilANSA**

This group is composed of representatives from the following: the Philippine Coalition for International Criminal Court, Philippine Action Against Small Arms, Peace Institute, Gazton Ortigas Peace Institute, the Center for Peace Education of Mirriam College, Sulong CAHRIHL, Generation for Peace.

Challenges and Gaps

Presented are the identified challenges and gaps:

No International Arms Treaty

There is no international treaty yet on arms trading and small arms proliferation. The group recommended that Civil Society must campaign for arms trading treaty and at the same time strengthen the local gun laws; strengthened mechanisms on gun control with recommendations and policy to support the drafting and ratification of the arms treaty.

No International Law Prohibiting Nuclear Weapons

There is no international law that prohibits the development of nuclear weapons. What the government have are treaties such as the non-proliferation treaty and the comprehensive test ban treaty, but this would not prevent countries from developing and producing them.

The group's recommendations are:

- a) To create a movement against development of nuclear weapons as well as prevent or object States that would engage with nuclear capacities.
- b) As to the recommendation on policy, there should be transparency regarding the Visiting

Forces Agreement (VFA). They said that they have identified the VFA as a possible presence of nuclear capabilities. As noted by them, at present, there are only nine countries that openly declare that they have nuclear capabilities. But there might be threats of nuclear presence even in the Philippines and without us knowing it.

Weak Implementation of International Treaties

The Philippines has a weak implementation of international treaties such as the Convention on the Rights of the Child (CRC), Convention on the Elimination of Discrimination Against Women (CEDAW), Economic, Civil and Cultural and Cultural Rights (ESCR), etc. It has been noted that the Philippines is second in Asia in the number of signed treaties, next to Cambodia.

Non-ratification of important statutes and treaties

They also identified the problem of non-ratification of important statutes and treaties. They recommended to conduct an awareness raising and education on the treaties which are signed by the Philippines. It should also install a monitoring system on the implementation of these treaties. This was highly recommended because according to them, most of the time it is in the monitoring mechanism and actual implementation of these treaties where problem lies. They commented that the government would love to sign treaties even without having the capacity to implement them. There is no proper mechanism. In some cases where there are such

mechanisms, it is the implementation that is problematic.

No Laws on Important HR Concerns on the Convention on Torture

Identified also is the absence of a domestic law implementing the Convention Against Torture, Convention Against Enforced Disappearances, International Criminal Court and other very important treaties. As they commented, the government's position on these treaties is not strong.

On Policy Recommendations

It was recommended that international treaties should be translated into domestic laws. Cited as an example was the Landmine Ban Treaty which until now does not have a domestic law. There is a Bill which is still pending in Congress. Also mentioned was the need to enhance implementing mechanisms of signed treaties.

Prosecutory Powers of CHR/Broadening the Capability of CHR

There must be some mechanisms where civil society and the other groups of people, together with other government agencies, can partner and actually have a platform for the actions.

Violations to Internationally Recognized Principles

Further identified were the violations to internationally recognized principles. As already mentioned by the previous groups, there were violations committed despite the limitations being set. There were abuses during war like pillage, destruction of property, seizure of property and kidnapping of ICRC members.

Use of Rape as a Tool for Violence

It was highlighted that some warring parties even

use rape as a tool for violence. This affects not only the individual but a broader section of the community.

They recommended to actively promote and monitor the CARHRIHL, and as well as all other mechanisms and legal instruments. It was noted that the UN Resolution No. 1325 empowers women to take part in peace building initiatives. So, there can be certain confederations of these different legal instrumentalities where it could be used as a tool to engage government or non-state armed groups.

A Parallel Policy/Agreement to CARHRIHL

There should be a policy parallel to CARHRIHL as regards to GRP-MILF Peace Talks. Both sides should agree that they would essentially promote the International Humanitarian Law and Human Rights and at the same time this should serve as a tool for those people who have been victims and whose rights have been violated in situations of conflicts in Mindanao. Noted as victims are the civilians in the areas of Mindanao and the vulnerable sectors. Specially mentioned is the Philippine ratification of the Rome Statute that would actually empower people to at least use this tool to be able to hold accountable those who are responsible for the violations especially the international arena.

Challenge to Create a Culture of Peace

The last but not the least identified was the challenge to integrate a framework creating a culture of peace vis-a-vis armed conflict framework. This would serve as a step towards the goal of achieving lasting peace. It poses a question on how to challenge the war framework and how to create a culture of peace. This triggered a debate

between the realists and the idealists in the group. Thus, it is also a challenge on how to come up with a realist international policy and an idealist activist principle whereby civil society becomes a powerful force to advocate for a lasting and genuine peace.

Ms. Karen Tañada:

Ms. Tañada said that it is the dilemma for everyone on how to keep their ideas but especially put them into practice and to be realists while doing the above-mentioned challenges.

GROUP V PROTECTION OF SOLDIERS

Rapporteur: **LTC Jose FB Loy, Jr. JAGS (GSC)**

Armed Forces of the Philippines

Atty. Loy introduced the members of the group, namely: P/SSupt Agrimero Cruz from the AFP; Col. Caridad Aguilar, JAGS, Philippine Air Force, P/SSupt Gerardo Dia of the PNP with Dir. Ana Elzy E. Ofreneo of the Commission on Human Rights as the facilitator.

Group 5's presentation covers the Protection of Soldiers out of combat, medical personnel, and facilities, equipment and installations.

As it was noted, the ideal is, hors de combat should be protected including not targeting their basic needs. Parties, most often than not, do not observe by non-state actors. For instance, non-combatants are targeted, tortured and are summarily killed. Included in the list are deaths and mutilation that have been happening during combat.

Violations are Not Properly Addressed

Another issue is, the violations are not properly addressed and the violators are not held accountable and brought to justice. The captured state security actors, including police and soldiers, are being used for propaganda purposes.

Actions and Measures

Listed hereunder are the proposed actions or measures:

1. Observance or adherence to IHL principles, including domestic laws;
2. Installation of Monitoring and Reporting Mechanism (MRM) to be jointly supervised or organized by neutral third party, like the CHR and NGOs or civil society organizations;
3. Pertinent laws should be promptly enacted by Congress;
4. Allowing access to remedies for both sides, meaning, the state security forces and non-state security forces. Cited are the Supreme Court rules on Writ of Amparo and Writ of Habeas Data and related auxiliary remedies.

Security and Safety of Journalists/Media

Another identified problem that should be addressed concerns the journalists or media practitioners. They should police their own ranks and practice responsible journalism.

Safety and Protection of Medical Personnel, Facilities and Life Sustaining Facilities

Armed forces from both sides should spare medical personnel, facilities and life sustaining utilities. They should be safeguarded/protected, not targetted. Medical personnel and practitioners are always being harassed, targeted

and used as shield by the other side. On many occasions, they are forcibly taken to treat their own patients.

Hospitals Used as Camps

As highlighted by the group, some hospitals are used as camps or being sieged to get their targets. The medical personnel of state security forces confined in the hospitals are captured. Worst, female medical personnels are taken as hostages and then they are used as comfort women. And after being used as such, they have to pay for their board and lodging or ransom. They said that this information is authentic, coming from people who are working on the ground. They claimed that that actually happened and are not hypothetical incidents.

Recommendations/ Actions and Policies:

1. There should be strict enforcement of the Philippine criminal laws;
2. Increase the number of mediators and their capacities who would be coming from the

CHR, which they as a third party, and that its capacities should be strengthened;

3. Establish a multi-agency sectoral representation from the government, NGOs, and probably international civil societies;
4. Strengthen the state security forces. That means the police and military should be increased in numbers including modernization of their equipment because it is hard or difficult for them to operate without strong armament;
5. Establish livelihood program/ industries so as to create an atmosphere of peace. They should be given livelihood so that they would not take war as an option to alleviate themselves from poverty; and
6. Education. They should be given enough education and be part in socio-economic development in their respective communities.

Concluding Statement

Group 5 concluded that if these recommendations would be followed, the armed conflict would be totally eradicated.

Group VI

PROMOTION OF IHL

Rapporteur: **Atty. Anita Chauhan**

Director, CHR Region I

Atty. Chauhan presented her group members, as follows:

Mr. Li Yongsheng, a representative from the Peoples Republic of China; Sulong CARHRIHL representative; Mr. Mark Puzon from ProtectChildren Involved in Armed Conflict; Melody Ibo from the Office of the Presidential Adviser on the Peace Process; and Mark Magundayao from the Youth Sector.

They thought at first that IHL is easy to discuss. However, as they went along, they found out that it was not so easy because they considered and made a rapid assessment of the promotion of IHL in the countryside. Thereafter, they agreed on certain points to be considered to make the promotion of IHL effective, such as:

- 1) who are the actors who will be promoting IHL?
- 2) who will be the beneficiary of the promotion or who will be the audience?

3) what approaches are they going to use? Bearing those things in mind, they were able to identify the gaps in the promotion of IHL.

Identified Gaps:

The identified gaps are as follows:

- 1) The national government has no national program regarding IHL. The military program is not the national program. It's only a part of the national program. But as a whole, even if the government is a signatory of the Geneva Conventions, it appears that educational measures, especially regarding promotion of IHL, is lacking. There is no program in this regard.
- 2) There is also lack of legislated Act for it to be enforced. So how could the violators be held accountable?
- 3) Not enough IHL education on the part of the soldiers deployed on the ground. As Atty. Chauhan emphasized, it is not enough to just conduct lectures. And perhaps not all soldiers who are deployed to the armed conflict areas are really internalizing IHL principles.
- 4) There is also lack of local mechanisms and structures to promote IHL. There are few organizations, government organizations, civil society organizations who promote IHL especially at the countryside.
The promotion of IHL appears to be very circumstantial. When there are problems that arise, then that will be the time to think of IHL. Cited as example is the present event that has been celebrated (referring to the kidnapped ICRC members). After which, it would be eventually forgotten.
- 5) The language used in IHL education at the grassroots is very technical, legal, academic and often times, in English. There are few

translations. So, it has to be suited to more people who should benefit from it.

6) IHL Education Turfing

In the promotion of IHL, it appears that there are some organizational and sectoral differences especially in the matter of turfing. There seems to be other groups claiming to be only experts on IHL and at the same time, they are the only ones that have the right to promote IHL. But actually, IHL is the concern of different sectors and different stakeholders.

- 7) Lack of standardization as to content of IHL. Atty. Chauhan noted some considerations in teaching IHL like what should be included in teaching IHL to the grassroots and to the weapon bearers. At present, they know it now because there is a curriculum. But their concern is, what about the other sectors?
- 8) Lack of sufficient materials and approaches to IHL teachings.

RECOMMENDATIONS

Rapporteur: **Mr. Mark Magudayao**

Representative, Samahang Demokratiko ng Kabataan

Mr. Magudayao, a student of the University of the Philippines, started his presentation by relaying a story of Mr. Li Yongsheng, their fellow group member who came from the Embassy of the People's Republic of China, who shared his experiences on the implementation of IHL in his own country specifically the promotion aspect. According to him, the sharing of those experiences really helped them a lot to come up with specific recommendations to improve or intensify the promotion of IHL in the Philippines.

Noting the gap which has been mentioned earlier, the Philippine government has no National

Program on IHL for it is not the priority of the government specifically to promote IHL. So they were able to draw a very positive example from China where their country is very committed to promote IHL. Thus, their armed conflicts were lessened also.

The group came up with recommendations, to wit:

- 1) To standardize IHL programs in the school curricula. Examples cited were the Reserved Officers Training Course (ROTC) and National Service Training Programs (NSTP). With this two programs, they observed, the ROTC and NSTP would only conduct drills to the students under the heat of the sun. They clean up the streets, roads, instead of having a real or tangible education. So it would be better to suggest this to the Department of Education or the Commission on Higher Education to have the study of IHL be incorporated in their curriculum in ROTC and NSTP.
- 2) To build a broad and consolidated constituency on IHL promotion where it includes as many agencies as possible.
- 3) To lobby for the enactment of IHL laws for it

- is in the legal process where the observance and implementation of IHL in the Philippines are founded.
- 4) To bring IHL education to the grassroots level. It must be promoted with an approach that would be understood and appreciated by, and successfully disseminated to common people.
- 5) To initiate efforts whereby both state and non-state actors understand, appreciate and acknowledge IHL for them to have a sense of accountability in the event of violation during their military operations.
- 6) To commit themselves in disseminating and educating IHL to the armed groups.
- 7) To build up consolidated efforts among actors to promote IHL so as to come up with better results.
- 8) To push the government and other sectors to make them get involved by providing adequate resources in promoting IHL.

Ms. Karen Tañada:

"I think that last point is quite important, the resources to make this possible is very important. So our last group will be discussing Harmonization of IHL and Domestic Laws."

Group VII

**HARMONIZATION OF INTERNATIONAL HUMANITARIAN LAWS
AND DOMESTIC LAWS**

Rapporteur : **Atty. Gemma Parojinog**
CHR Central Office

Atty. Parojinog introduced the members of her group, namely: Director of the Legal and Investigation Office, Atty. Flora C. Atilano; Ms. Becky Lozada, and our documentor Ms Candy Diez and Mr. Darwin Mendiola and herself. She first gave a background on why there is a need to harmonize IHL with domestic laws.

As explained by her, while international treaties, specifically International Humanitarian Law, is legally binding in our domestic sphere of legal administration of justice, it is necessary to inculcate them in our national laws in such a way that our prosecutors as well as the judges can easily apply these laws in our courts.

CHALLENGES:

First challenge –

No national law regarding IHL.

Recommendations:

- Review of the existing state policies, particularly those concerning the security sector, particularly the AFP's Rules of Engagement, the Rules of Procedure as well as the military justice system. This is important because in the implementation of the AFP's Rules of Engagement, the legal standards set up by IHL should be considered. In this way, IHL becomes localized or domesticized.
- Compliance monitoring by the Civil Society. The Civil Society should recognize the fact that they have the capacity to give information on what is happening in our society with regard to the implementation of IHL.

Second challenge –

Enactment of IHL Bill itself.

Recommendations:

- Lobby for the passage of the IHL Bill. We do that by social mobilization for the legislative body and ensuring the passage of the Bill. We will get support from different state actors and non-state actors and other organizations so as to help in the lobbying.
- Public awareness campaign for the importance and the necessity to adopt the IHL in the domestic system. The previous group mentioned how we should promote the IHL itself.
- We should lobby or conduct a dialogue with the Executive Branch to certify the IHL Bill as a priority Bill because this armed conflict has already been a long problem, specifically in Mindanao.

Third Challenge –

There is a need to strengthen remedy for IHL Bill violations. IHL violations occurred and continue to occur.

Recommendations:

- Ratification of relevant treaties. Treaties like the 1998 Rome Statute on International Criminal Court, Protection of Victims of International Armed Conflict, the 1954 Hague Convention for the Protection of Cultural Properties, the 1999 Protocol, and the Optional Protocol on the Convention Against Torture, have been ratified but not yet signed by the President.
- Ensure the enactment of the domestic legislations. We have Bills pending in Congress which includes the IHL Bill, Convention Against Torture, Bill against Enforced Disappearance, Bill for the Internally Displaced Persons.

Fourth Challenge -

Provisions for an effective legal aid service for the underprivileged. We see this as a problem so we have to strengthen remedies.

Recommendation:

- To provide free legal aid services to the victims, usually from the far-flung areas, where they cannot afford to hire their own lawyers.

Fifth Challenge –

The unresolved cases of alleged IHL violations. With IHL still not translated into domestic law, IHL violations may be remedied by reviewing and strengthening the current witness protection program of the State taking into account the development in Human Rights and International Humanitarian Law. As observed by many, victims are unwilling to cooperate due to fear/threat to their lives because their aggressors are usually state agents.

Recommendations:

- The Witness Protection Program should be administered by an independent office apart from the Department of Justice. Perhaps, a combination of, or in coordination with, the CHR and the DSWD.
- Next is the continuing capability program for investigators and prosecutors, to include provision of necessary equipments and facilities. It has been noted also that the prosecutors themselves and the judges do not understand the international humanitarian law as it is. They focuses on the national law.
- Lastly, to strengthen the jurisprudence of International Humanitarian Law and also Human Rights concepts. An enriched IHL jurisprudence would enable lawyers to use them to prosecute human rights and IHL violations.

Ms. Karen Tañada:

Ms. Tañada expressed her thanks to all presentors. She observed that there seems to be synergy or a lot of similarities in the different reports.



The floor was opened for concerns or questions on the group report. Nobody stood up, thus, Ms. Tañada commented that there seems to be no burning questions from the reports presented.

Synthesis

Ms. Tañada observed that there are many recommendations on the policy level which need to be addressed like the need to ratify certain laws like the International Criminal Court: their additional protocols to create the laws for IDPs, IHL, the landmines, the arms trade treaty on the

international level. For many instances, they also see the need for implementation. There are quite a lot of recommendations on how they can really try to work on the implementation, promotion and education with regard to IHL. And the challenge is, how can they work together on all those recommendations.

One Way Forward – the Communiqué

Ms. Tañada said that one positive way to move forward is by having a Communique. Each one was invited to listen to the proposed Communique for the Summit. She also informed them that perhaps the communiqué will summarize the intentions of the National Summit on IHL where all of them can see their priority commitments where they could work together with the CHR, government agencies and Civil Society.

Ms. Tañada then called on Ms. Becky Lozada of the Philippine Coalition of International Criminal Court to present the proposed Communiqué for the Summit. Each one was encouraged to make additions, suggestions and comments to improve the Draft because she believes that there is always a room for to improve.

Hereunder Draft Communique was presented to the body by Ms. Becky Lozada of the Philippine Coalition of International Criminal Court.



**Celebrating 60 Years of the Geneva Conventions:
Towards an Action Plan for IHL, Towards Protection of Filipinos**

**COMMUNIQUÉ OF THE NATIONAL SUMMIT
ON INTERNATIONAL HUMANITARIAN LAW**

organized by
the Commission on Human Rights,
the Civil Society Initiatives for IHL,
and EO 134 National Committee,
12 August 2009, Seameo-Innotech, Quezon City

We, participants of the National Summit on International Humanitarian Law of August 12, 2009, meeting under the theme Geneva Conventions: Humanity Amidst Conflict, celebrate together and with the whole world the 60th anniversary of the Geneva Conventions of 1949.

We reaffirm the commitment of the Philippines to uphold the principles of international law as demonstrated with the ratification of the Conventions in 1952 and related agreements, including the 1948 Genocide Convention (ratified 1950); 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1973); 1977 Second Protocol Additional to the Geneva Conventions relating to the protection of victims of non-international armed conflict (1986); 2005 Third Protocol Additional to the Geneva Conventions relating to the adoption of an additional distinctive emblem (2006); 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2003); and various conventions governing the use, restriction or prohibition of weapons such as poisonous gas (1973), biological weapons (1973), chemical weapons, certain conventional weapons and anti-personnel landmines (2000).

We take this opportunity to take a hard look at our country's record in observing the standards and norms of international humanitarian law. In this national summit and the earlier regional summits; we note the challenges and gaps in IHL practice in the country and commit to seek ways of moving forward in IHL compliance.

We recognize the promotion of IHL, institutionalization of protection mechanisms, and full realization of the fundamental principles of IHL as imperatives to achieving our aspirations for rule of law in times of war and peace. Thus, we put forward, as initial proposals in developing a national action plan on IHL, the following recommendations for policy changes and for action:

In terms of promotion, we see the need for a comprehensive national program that will address the need for education on IHL from the grassroots up and build a broad and consolidated constituency for IHL.

Specifically, we recommend

- Introducing and implementing an IEC campaign on IHL with a strong media component to reach out to the basic sector;
- Standardizing an IHL section in formal school curricula and co-curricular programs like the ROTC and NSTP;
- Making armed groups (state and non-state) understand IHL and their accountability in the event of violations;
- Providing resources – from government and civil society — in promoting IHL; and
- Enacting an IHL law that incorporates promotion and education.

In terms of protection, there is urgent need to respond to the situation of internally displaced persons, soldiers out of combat, medical personnel, children involved in armed conflict and other vulnerable groups. Specifically, we recommend immediate relief and the provision of basic services to those affected by situations of conflict and the development and institutionalization of systems and structures for protection, including the following:

- Establishing multi-agency /sectoral representation in response mechanisms, and
- Developing infrastructures to respond to needs of displaced persons-- psycho-social interventions, socio-economic development, education, etc.

FOR IDPs

- Expanding monitoring and IDP protection networks and supporter,
- Utilizing CARHRIHL and pushing for other agreements to raise the issue of IDPs and their protection in areas with GRP-NDFP conflicts

FOR MEDICAL,

- Instituting Monitoring Reporting Mechanism (MRM) jointly organized with a third party,
- Safeguarding medical personnel and facilities and life sustaining utilities, and
- Increasing the number of mediators and their capacities.

FOR SECURITY FORCES

- Allowing access (for both sides) to official records (writ of habeas data),
- Strengthening and professionalizing security forces (number/ equipment), and
- Enhancing integrated community security and safety measures.

In terms of observing the principles of IHL – distinction, limitations and proportionality— the main concerns are on non-compliance on the protection of child combatants, use of weapons that do not distinguish civilian objectives from military objectives; absence of domestic laws that distinguish civilians from combatants; the proliferation of small arms proliferation; and, the weak local implementation of international treaties such as the Convention on the Right of the Child, CEDAW, ESCR, etc. We advance the following action points and policy recommendations:

- Documenting, investigating and prosecuting IHL violations;
- Criminalizing the use of weapons that do not distinguish e.g. landmines, booby traps;
- Lobbying for the passage of the IHL bill and the ratification of the Rome Statute;
- Strengthening local gun laws and campaigning for the Arms Trade Treaty;
- Creating the movement against nuclear weapons production/ development, and
- Conducting dialogues between and among conflicting parties

In honor of the Conventions and the whole IHL regime, we close this summit with the following urgent calls

1. **On the major parties to the armed conflicts in the Philippines — namely the GRP-AFP, the CPP-NPA-NDF, the MILF and the MNLF — to bring into force, by means of special agreements in the context of the peace process, those Conventions to the extent appropriate to their respective armed conflicts.** Short of such special agreements, we call on the same parties to issue unilateral declarations of undertaking to apply those Conventions to the extent appropriate to their conduct of armed conflict. In this way, the higher standards of those Conventions for international armed conflict might be applied to our situations of internal armed conflict which need and can benefit from better humanitarian protection of civilians and other protected persons under IHL.

2. **On the Commission on Human Rights to seriously consider adopting a policy of entertaining, investigating and processing complaints of IHL violations,** not just human rights violations, from whichever source. After all, IHL has often been considered as "human rights during armed conflicts," while the CHR has the stature, nationwide regional network and resources of an independent constitutional body.

The Summit also calls on the CHR to develop in particular its own complementary or fallback mechanism to the Joint Monitoring Committee (JMC) mechanism for the GRP-NDF Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). This second call is occasioned by the negative experience of many years with the inherent impasse- or stalemate-prone provisions of CARHRIHL on its JMC mechanism, to the detriment of effective investigation and action on various complaints of human rights and IHL violations committed by both sides.

3. **On Civil Society to continue to play the important role of a neutral and impartial civil society in the promotion, respect and implementation of IHL in the Philippines.**

The Philippine Constitution provides that "The State shall respect the role independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means." The Geneva Conventions have likewise long recognized a role for impartial humanitarian bodies. The Summit thus also recognizes the positive roles and contribution of local humanitarian NGOs as watchdogs over the state and non-state armed groups, as service-providers, and as advocates of alternative policies.

4. **On the Philippine Government, the Philippine Congress to ensure the harmonization of the international and domestic legislations on IHL.** The Executive is urgently requested to certify the IHL Bill as a priority legislation and the Legislature to enact an IHL Bill as well as pending domestic legislations on torture, internal displacement and disappearance to augment remedies to address IHL violations and unresolved cases. The following signed agreements must be ratified: the 1998 Rome Statute on the International Criminal Court; 1977 First Protocol Additional to the Geneva Conventions relating to the protection of victims of international armed conflict; 1954 Hague Convention for the Protection of Cultural Property and its 1999 protocol; and, the Optional Protocol on the Convention Against Torture. For signature and ratification, there is the Convention against Enforced Disappearance.

In addition, there is need to review and strengthen the current Witness Protection Program taking into account the developments on HR and IHL, to provide for an effective legal aid service for the underprivileged, to conduct continuing capability programs of investigators and prosecutors to include the provision of necessary equipment and facilities, to introduce compliance monitoring of treaty obligations, and to reviewing existing national policies particularly those concerning the security sector particularly the AFP Rules of engagement, PNP Rules of Procedure as well as the military justice system.

5. **Finally, for all sectors of Philippine Society to work together to achieve the recommendations of this National Summit and work towards the creation of a national action plan for IHL.**

These are calls and commitments we make to and on each other and Philippine society in general as we seek to move from law-breaking and war to the rule of law and the creation of a culture of peace.

CLOSING REMARKS

HON. NORBERTO DELA CRUZ

Commissioner and Officer-In-Charge
Commission on Human Rights

This, I believe, is another very successful and fruitful IHL Summit. We were able to see the current state of IHL compliance in the Philippines. We had impressive panel discussions about IHL Implementation in our shores. We came up with recommendations for policies and actions for various State and non-State actors including the promotion and the protection of vulnerable sectors. And, the finalization of the Summit Communique. We were even able to launch a book-GRADUATED CURRICULUMS ON HR AND IHL EDUCATION FOR THE MILITARY. We accomplished all these, and still, we had time to enjoy the intermission numbers courtesy of ANIDO.

We would like to thank Executive Secretary Eduardo R. Ermita for the keynote address, and all the speakers for their time and effort and for sharing their knowledge.

We would like to thank the Civil Society Initiatives for IHL and all its umbrella partners – BALAY, Sulong CARHRIHL, PCICC, PCBL, ProtectCIAC and all other members under the umbrella organization.

In the Government side, we would like to thank you, the National Ad-hoc Committee for IHL Day under E.O. 134.

We wish to thank the Swiss Government for their contribution towards the publication of the Summit proceedings and validation edition



of the Graduated Education Curriculums on HR and IHL.

Maraming salamat -- sa inyo ANIDO for providing entertainment and a cultural interlude in this Summit;

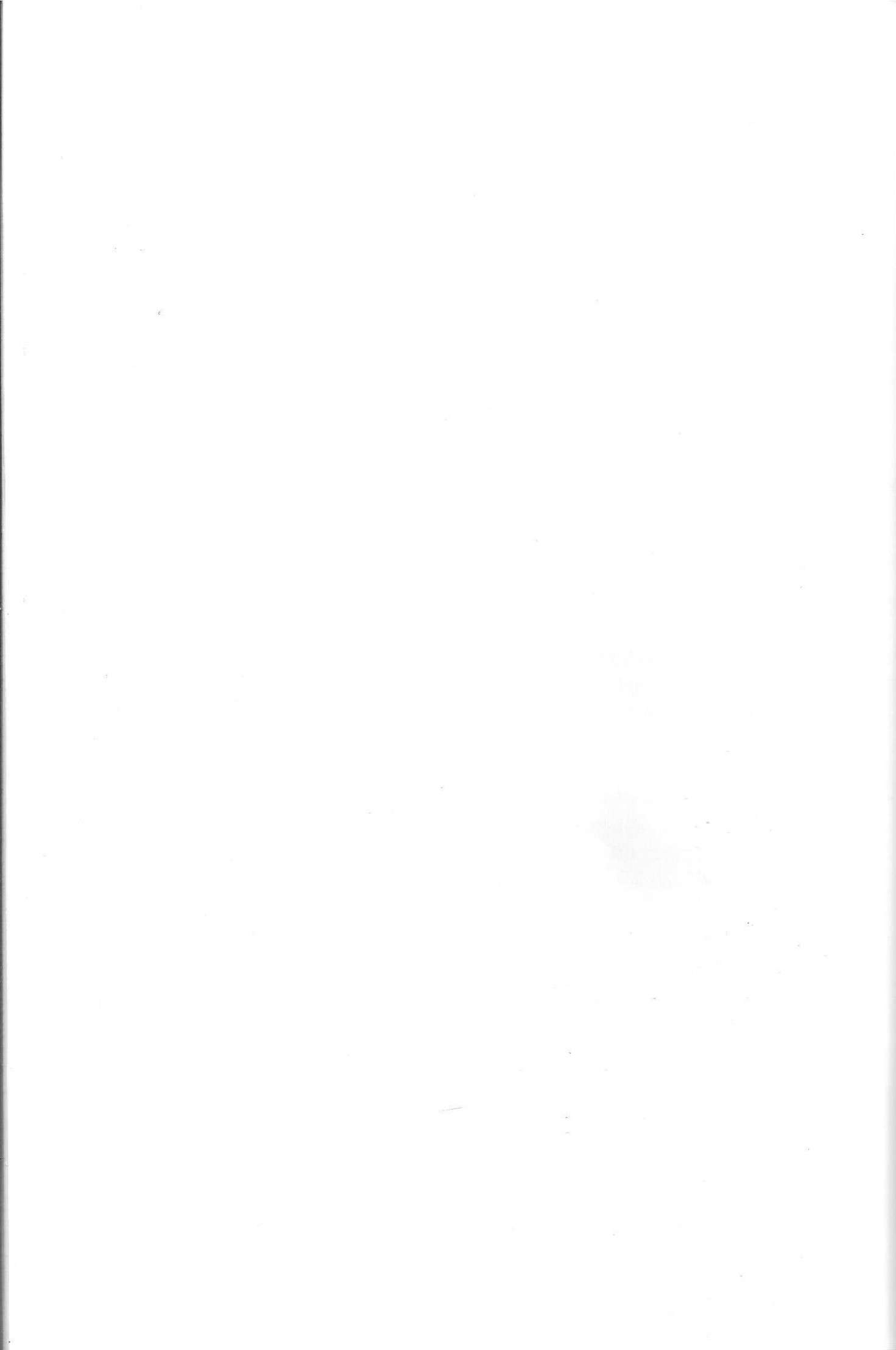
To Comm. Maning Mamauag for the outstanding review of the various actors obligation under IHL; and

To Comm. Coco Quisumbing, the Conference Chair.

Thank you also to ERO Director Elzy Ofreneo, her officers and staff, IHL Division OIC Epifania O. Garay, Central and Regional Offices.

As we end and close this summit and leave this venue, let us make sure not to sleep on our accomplishments today. We made progress here—a good step forward. We have to continue to look for ways to improve compliance with International Humanitarian Law until we can build a Philippines free of war crimes and crimes against humanity.

*Thank you all for participating.
God Bless."*





Annexes

NATIONAL SUMMIT ON INTERNATIONAL HUMANITARIAN LAW
12 August 2009
PROGRAMME

7:30 – 8:30	Registration	CHR and CSI
8:30 - 9:15	INVOCATION NATIONAL ANTHEM WELCOMING REMARKS OPENING REMARKS KEYNOTE ADDRESS	CHR and CSI led by CHR Representatives Hon. CECILIA R.V. QUISUMBING, <i>Commissioner, CHR</i> Hon. ALBERTO G. ROMULO, <i>Secretary, DFA</i> Hon. GILBERTO C. TEODORO, <i>Secretary, DND</i> Hon. EDUARDO R. ERMITA, <i>Executive Secretary</i>
9:15-9:30	INTERMISSION NUMBER (Snacks to be served)	ANIDO Dance Troupe
9:30 – 10:00	SOLIDARITY MESSAGES	Atty. CHAMAINE ENERVA, <i>Legal Officer, ICRC</i> Mr. ERNESTO ANASARIAS, <i>Convenor, CSI-IHL</i> Hon. JUERG CASSERINI, <i>Charge d'Affaires, Embassy of Switzerland</i>
10:00 - 10:15	<i>Review of the Phil State and Non-State Actors' Obligations Under IHL</i>	Hon. JOSE MANUEL S. MAMAUAG, <i>CHR Commissioner</i>
10:15 - 11:00	Panel Discussions : IHL Implementation in the Philippines * Topic 1 – Situationers from the ground * Topic 2 – Good Practices and Initiatives of Service Providers * Topic 3 – Interface between International and Domestic Laws on Armed Conflict	Atty. MARILYN PINTOR, <i>Director, CHR CARAGA Region</i> Mr. YUL ULANGKAYA, <i>Bantay Ceasefire</i> Prof. MIRIAM CORONEL-FERRER, <i>Sulong CARHRIHL</i> Ms. LAN MERCADO, <i>OXFAM Country Director</i> Atty. SEDFREY M. CANDELARIA, <i>Chairman-GRP-MC</i>
11:00 - 11:15	Book Launching: GRADUATED CURRICULUMS ON HR AND IHL EDUCATION FOR THE MILITARY	Hon. CECILIA R.V. QUISUMBING, <i>CHR Commissioner</i> Ms. ANA ELZY E. OFRENEO, <i>CHR Director</i>
11:15- 11:50	OPEN FORUM	Chaired by CHR Comm. CECILIA R.V. QUISUMBING
11:50 – 12:00	PRESENTATION OF WORKSHOP MECHANICS	
12:00 – 1:00	LUNCH (with cultural interlude)	Ethnic Dance Troupe ANIDO
1:00 – 2:30	PARALLEL WORKSHOPS by Break-Out Groups	
2:30 – 4:00	PRESENTATION OF WORKSHOP OUTPUTS	
4:00 – 4:45	FINALIZATION and APPROVAL of SUMMIT COMMUNIQUE including ADOPTION OF RECOMMENDATIONS OR ACTIONS & POLICIES ON IHL PROMOTION AND COMPLIANCE	Chaired by CHR Comm CECILIA R.V. QUISUMBING
4:45 – 5:00	CLOSING	Hon. NORBERTO DE LA CRUZ, <i>Commissioner and Officer-in-Charge, CHR</i>

Conference Chair: CECILIA R.V. QUISUMBING, *Commissioner, CHR*

Masters of Ceremony

Ms. ANA ELZY E. OFRENEO and Ms. KAREN TAÑADA
Director, HR Education and Research Office, CHR Executive Director, GZO Peace Institute, CSI-IHL

The IHL Logo



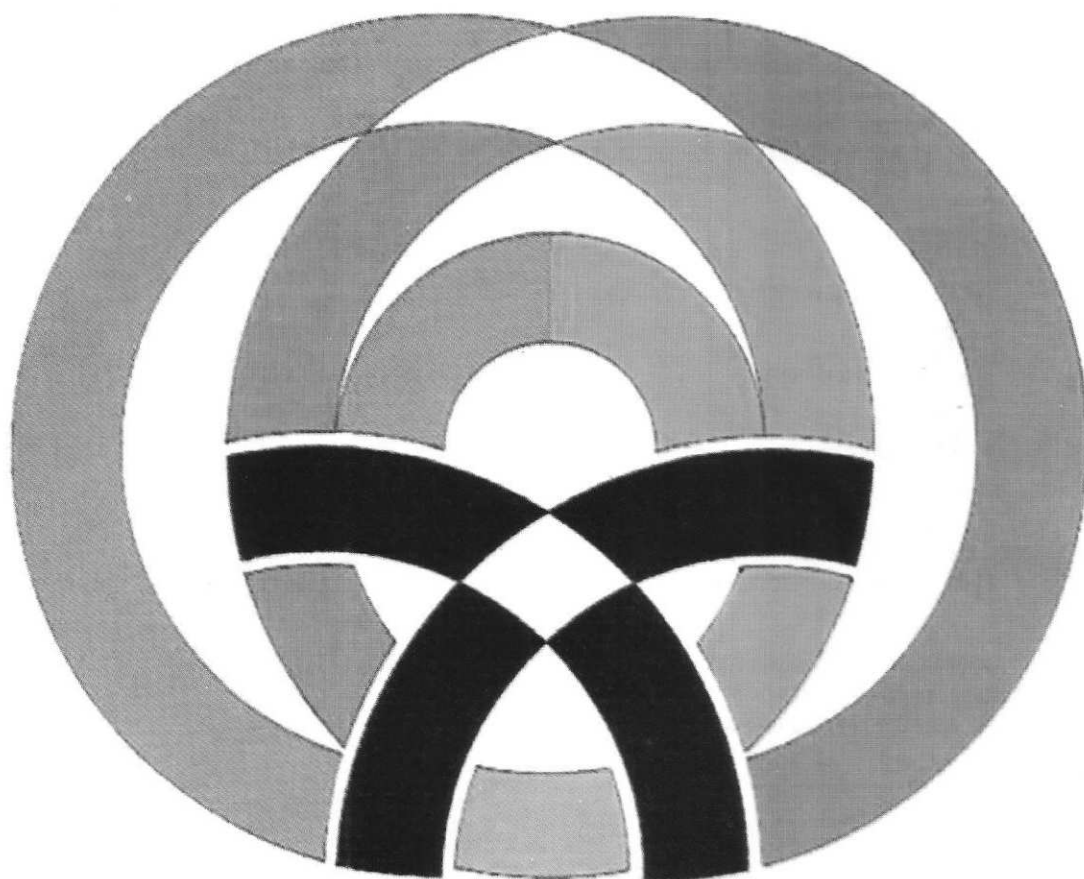
LIGHT
TRUTH

JUSTICE
PEACE
UNITY

HUMAN RIGHTS - INTERNATIONAL HUMANITARIAN LAW

COOPERATION

CONFLICT



HUMAN RIGHTS-INTERNATIONAL HUMANITARIAN LAW
COMMISSION ON HUMAN RIGHTS

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 134

DECLARING AUGUST 12, 1999 AND EVERY 12TH DAY OF AUGUST THEREAFTER AS INTERNATIONAL HUMANITARIAN LAW DAY

WHEREAS, the Philippines adheres to the principles of human rights and humanitarian laws enshrined in international human rights treaties and instruments to which it is a State Party;

WHEREAS, human rights laws apply both in times of peace and during armed conflict, while International Humanitarian Law, or the laws of armed conflict, apply only during times of war or armed conflict;

WHEREAS, the Philippines, as a Contracting Party to the Four Geneva Conventions of August 12, 1949: (I) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; (II) Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; (III) Geneva Convention Relative to the Treatment of Prisoners of War; and (IV) Geneva Convention Relative to the Protection of Civilian Persons in Time of War; and Protocol Additional to the Geneva Conventions and Relating to the Protection of Victims of Non-International Armed Conflicts which was acceded to by the country on 11 December 1986, subscribes to the basic principle of disinterested humanitarian aid to all victims of war and armed conflict without discrimination.

WHEREAS, in solidarity with the other Contracting Parties to the four Geneva Conventions and Additional Protocol II, the Philippines accepts direct responsibility for the application of international humanitarian law when involved in an armed conflict.

WHEREAS, the officials and personnel of government departments, law enforcement agencies, and local government units need to enhance their understanding of the principles of international humanitarian law in order to further strengthen their resolve to adhere to, promote and protect these principles;

WHEREAS, the commemoration of International Humanitarian Law Day will raise the people's consciousness and promote greater awareness of the principles of International Humanitarian Law;

NOW, THEREFORE, I, JOSEPH EJERCITO ESTRADA, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare August 12, 1999 and every 12th day of August thereafter as International Humanitarian Law Day.



PAE Malacanang 6584

- 2 -

All concerned departments and agencies of the government are enjoined to observe International Humanitarian Law Day and to actively support and participate in programs and activities to commemorate this Day.

The Department of National Defense and the Department of Foreign Affairs are hereby directed to co-chair an *ad-hoc* committee that will formulate and implement these yearly activities, in collaboration with the International Committee of the Red Cross in Manila, the Philippine National Red Cross and the concerned non-government organizations and people's organizations in the country.

The budget for these yearly activities shall be included in the annual appropriations of the Department of National Defense.

Done in the City of Manila, this 31st day of July, in the year of Our Lord, nineteen hundred and ninety nine.

[Signature]

By the President:

[Signature]

RONALDO B. ZAMORA
Executive Secretary



PAE Malacanang 6585

CERTIFIED COPY:

[Signature]
AURORA T. AGUIÑO
Director IV
Malacanang Records Office

[Signature]

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh
day of July, two thousand nine.

[REPUBLIC ACT NO. 9851]

AN ACT DEFINING AND PENALIZING CRIMES AGAINST
INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND
OTHER CRIMES AGAINST HUMANITY, ORGANIZING
JURISDICTION, DESIGNATING SPECIAL COURTS, AND FOR
RELATED PURPOSES

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

CHAPTER I
INTRODUCTORY PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as
the “Philippine Act on Crimes Against International
Humanitarian Law, Genocide, and Other Crimes Against
Humanity”.

SEC. 2. *Declaration of Principles and State Policies.* –

(a) The Philippines renounces war as an instrument of
national policy, adopts the generally accepted principles of
international law as part of the law of the land and adheres
to a policy of peace, equality, justice, freedom, cooperation and
amity with all nations;

(b) The State values the dignity of every human person
and guarantees full respect for human rights, including the
rights of indigenous cultural communities and other vulnerable
groups, such as women and children;

(c) It shall be the responsibility of the State and all other
sectors concerned to resolve armed conflict in order to promote
the goal of “Children as Zones of Peace”;

(d) The State adopts the generally accepted principles of
international law, including the Hague Conventions of 1907,
the Geneva Conventions on the protection of victims of war
and international humanitarian law, as part of the law of our
nation;

(e) The most serious crimes of concern to the
international community as a whole must not go unpunished
and their effective prosecution must be ensured by taking
measures at the national level, in order to put an end to
impunity for the perpetrators of these crimes and thus
contribute to the prevention of such crimes, it being the duty
of every State to exercise its criminal jurisdiction over those
responsible for international crimes;

(f) The State shall guarantee persons suspected or accused
of having committed grave crimes under international law all
rights necessary to ensure that their trial will be fair and
prompt in strict accordance with national and international
law and standards for fair trial. It shall also protect victims,
witnesses and their families, and provide appropriate redress
to victims and their families. It shall ensure that the legal
systems in place provide accessible and gender-sensitive
avenues of redress for victims of armed conflict; and

(g) The State recognizes that the application of the provisions of this Act shall not affect the legal status of the parties to a conflict, nor give an implied recognition of the status of belligerency.

CHAPTER II

DEFINITION OF TERMS

SEC. 3. For purposes of this Act, the term:

(a) "Apartheid" means inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group or groups and committed with the intention of maintaining that regime.

(b) "Arbitrary deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under domestic or international law.

(c) "Armed conflict" means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within a State: *Provided*, That such force or armed violence gives rise, or may give rise, to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including belligerent occupation; or non-international, that is, between governmental authorities and organized armed groups or between such groups within a State. It does not cover internal disturbances or tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(d) "Armed forces" means all organized armed forces, groups and units that belong to a party to an armed conflict which are under a command responsible to that party for the conduct of its subordinates. Such armed forces shall be subject to an internal disciplinary system which enforces compliance with International Humanitarian Law.

(e) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in Section 6 of this Act against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

(f) "Effective command and control" or "effective authority and control" means having the material ability to prevent and punish the commission of offences by subordinates.

(g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

(h) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.

(i) "Extermination" means the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of a part of a population.

(j) "Forced pregnancy" means the unlawful confinement of a woman to be forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

(k) "*Hors de combat*" means a person who:

(1) is in the power of an adverse party;

(2) has clearly expressed an intention to surrender; or

(3) has been rendered unconscious or otherwise incapacitated by wounds or sickness and therefore is incapable of defending himself: *Provided*, That in any of these cases,

the person abstains from any hostile act and does not attempt to escape.

(l) "Military necessity" means the necessity of employing measures which are indispensable to achieve a legitimate aim of the conflict and are not otherwise prohibited by International Humanitarian Law.

(m) "Non-defended locality" means a locality that fulfills the following conditions:

(1) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;

(2) no hostile use of fixed military installations or establishments must have been made;

(3) no acts of hostility must have been committed by the authorities or by the population; and

(4) no activities in support of military operations must have been undertaken.

(n) "No quarter will be given" means refusing to spare the life of anybody, even of persons manifestly unable to defend themselves or who clearly express their intention to surrender.

(o) "Perfidy" means acts which invite the confidence of an adversary to lead him/her to believe he/she is entitled to, or is obliged to accord, protection under the rules of International Humanitarian Law, with the intent to betray that confidence, including but not limited to:

(1) feigning an intent to negotiate under a flag of truce;

(2) feigning surrender;

(3) feigning incapacitation by wounds or sickness;

(4) feigning civilian or noncombatant status; and

(5) feigning protective status by use of signs, emblems or uniforms of the United Nations or of a neutral or other State not party to the conflict.

(p) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of identity of the group or collectivity.

(q) "Protected person" in an armed conflict means:

(1) a person wounded, sick or shipwrecked, whether civilian or military;

(2) a prisoner of war or any person deprived of liberty for reasons related to an armed conflict;

(3) a civilian or any person not taking a direct part or having ceased to take part in the hostilities in the power of the adverse party;

(4) a person who, before the beginning of hostilities, was considered a stateless person or refugee under the relevant international instruments accepted by the parties to the conflict concerned or under the national legislation of the state of refuge or state of residence;

(5) a member of the medical personnel assigned exclusively to medical purposes or to the administration of medical units or to the operation of or administration of medical transports; or

(6) a member of the religious personnel who is exclusively engaged in the work of their ministry and attached to the armed forces of a party to the conflict, its medical units or medical transports, or non-denominational, noncombatant military personnel carrying out functions similar to religious personnel.

(r) "Superior" means:

(1) a military commander or a person effectively acting as a military commander; or

(2) any other superior, in as much as the crimes arose from activities within the effective authority and control of that superior.

(s) "Torture" means the intentional infliction of severe pain or suffering, whether physical, mental, or psychological, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.

(t) "Works and installations containing dangerous forces" means works and installations the attack of which may cause the release of dangerous forces and consequent severe losses among the civilian population, namely: dams, dikes, and nuclear, electrical generation stations.

CHAPTER III

CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND OTHER CRIMES AGAINST HUMANITY

SEC. 4. *War Crimes.* – For the purpose of this Act, "war crimes" or "crimes against International Humanitarian Law" means:

(a) In case of an international armed conflict, grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(1) Willful killing;

(2) Torture or inhuman treatment, including biological experiments;

(3) Willfully causing great suffering, or serious injury to body or health;

(4) Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;

(5) Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

(6) Arbitrary deportation or forcible transfer of population or unlawful confinement;

(7) Taking of hostages;

(8) Compelling a prisoner of war or other protected person to serve in the forces of a hostile power; and

(9) Unjustifiable delay in the repatriation of prisoners of war or other protected persons.

(b) In case of a non-international armed conflict, serious violations of common Article 3 to the four (4) Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause:

(1) Violence to life and person, in particular, willful killings, mutilation, cruel treatment and torture;

(2) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;

(3) Taking of hostages; and

(4) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(c) Other serious violations of the laws and customs applicable in armed conflict, within the established framework of international law, namely:

(1) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(2) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;

(3) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions or Additional Protocol III in conformity with international law;

(4) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(5) Launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be excessive in relation to the concrete and direct military advantage anticipated;

(6) Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, and causing death or serious injury to body or health;

(7) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives, or making non-defended localities or demilitarized zones the object of attack;

(8) Killing or wounding a person in the knowledge that he/she is *hors de combat*, including a combatant who, having laid down his/her arms or no longer having means of defense, has surrendered at discretion;

(9) Making improper use of a flag of truce, of the flag or the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or other protective signs under International Humanitarian Law, resulting in death, serious personal injury or capture;

(10) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives. In case of doubt whether such building or place has been used to make an effective contribution to military action, it shall be presumed not to be so used;

(11) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his/her interest, and which cause death to or seriously endanger the health of such person or persons;

(12) Killing, wounding or capturing an adversary by resort to perfidy;

(13) Declaring that no quarter will be given;

(14) Destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;

(15) Pillaging a town or place, even when taken by assault;

(16) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(17) Transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of

the population of the occupied territory within or outside this territory;

(18) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;

(19) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions or a serious violation of common Article 3 to the Geneva Conventions;

(20) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

(21) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions and their Additional Protocols;

(22) In an international armed conflict, compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

(23) In an international armed conflict, declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

(24) Committing any of the following acts:

(i) Conscripting, enlisting or recruiting children under the age of fifteen (15) years into the national armed forces;

(ii) Conscripting, enlisting or recruiting children under the age of eighteen (18) years into an armed force or group other than the national armed forces; and

(iii) Using children under the age of eighteen (18) years to participate actively in hostilities; and

(25) Employing means of warfare which are prohibited under international law, such as:

(i) Poison or poisoned weapons;

(ii) Asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(iii) Bullets which expand or flatten easily in the human body, such as bullets with hard envelopes which do not entirely cover the core or are pierced with incisions; and

(iv) Weapons, projectiles and material 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.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

SEC. 5. *Genocide*. - (a) For the purpose of this Act, "genocide" means any of the following acts with intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group as such:

(1) Killing members of the group;

(2) Causing serious bodily or mental harm to members of the group;

(3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(4) Imposing measures intended to prevent births within the group; and

(5) Forcibly transferring children of the group to another group.

(b) It shall be unlawful for any person to directly and publicly incite others to commit genocide.

Any person found guilty of committing any of the acts specified in paragraphs (a) and (b) of this section shall suffer the penalty provided under Section 7 of this Act.

SEC. 6. *Other Crimes Against Humanity.* – For the purpose of this Act, “other crimes against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Willful killing;
- (b) Extermination;
- (c) Enslavement;
- (d) Arbitrary deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act,
- (i) Enforced or involuntary disappearance of persons,
- (j) Apartheid; and

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

CHAPTER IV PENAL PROVISIONS

SEC 7. *Penalties.* – Any person found guilty of committing any of the acts provided under Sections 4, 5 and 6 of this Act shall suffer the penalty of *reclusion temporal* in its medium to maximum period and a fine ranging from One hundred thousand pesos (Php100,000.00) to Five hundred thousand pesos (Php500,000.00).

When justified by the extreme gravity of the crime, especially where the commission of any of the crimes specified herein results in death or serious physical injury, or constitutes rape, and considering the individual circumstances of the accused, the penalty of *reclusion perpetua* and a fine ranging from Five hundred thousand pesos (Php500,000.00) to One million pesos (Php1,000,000.00) shall be imposed.

Any person found guilty of inciting others to commit genocide referred to in Section 5(b) of this Act shall suffer the penalty of *prision mayor* in its minimum period and a fine ranging from Ten thousand pesos (Php10,000.00) to Twenty thousand pesos (Php20,000.00).

In addition, the court shall order the forfeiture of proceeds, property and assets derived, directly or indirectly, from that crime, without prejudice to the rights of *bona fide* third (3rd) parties. The court shall also impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer.

CHAPTER V

SOME PRINCIPLES OF CRIMINAL LIABILITY

SEC. 8. *Individual Criminal Responsibility.* – (a) In addition to existing provisions in Philippine law on principles of criminal responsibility, a person shall be criminally liable as principal for a crime defined and penalized in this Act if he/she:

(1) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(2) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(3) In any other way contributes to the commission or attempted commission of such a crime by a group of person acting with a common purpose. Such contribution shall be intentional and shall either:

(i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime defined in this Act; or

(ii) be made in the knowledge of the intention of the group to commit the crime.

(b) A person shall be criminally liable as accomplice for facilitating the commission of a crime defined and penalized in this Act if he/she aids, abets or otherwise assists in its commission or attempted commission, including providing the means for its commission.

(c) A person shall be criminally liable for a crime defined and penalized in this Act if he/she attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intention. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall

not be liable for punishment under this Act for the attempt to commit the same if he/she completely and voluntarily gave up the criminal purpose.

SEC. 9. *Irrelevance of Official Capacity.* – This Act shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a head of state or government, a member of a government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Act, nor shall it, in and of itself, constitute a ground for reduction of sentence. However:

(a) Immunities or special procedural rules that may be attached to the official capacity of a person under Philippine law other than the established constitutional immunity from suit of the Philippine President during his/her tenure, shall not bar the court from exercising its jurisdiction over such a person; and

(b) Immunities that may be attached to the official capacity of a person under international law may limit the application of this Act, but only within the bounds established under international law.

SEC. 10. *Responsibility of Superiors.* – In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

(a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes; -

(b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

SEC. 11. *Nonprescription.* – The crimes defined and penalized under this Act, their prosecution, and the execution of sentences imposed on their account, shall not be subject to any prescription.

SEC. 12. *Orders from a Superior.* – The fact that a crime defined and penalized under this Act has been committed by a person pursuant to an order of a government or a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless all of the following elements concur:

(a) The person was under a legal obligation to obey orders of the government or the superior in question;

(b) The person did not know that the order was unlawful; and

(c) The order was not manifestly unlawful.

For the purposes of this section, orders to commit genocide or other crimes against humanity are manifestly unlawful.

CHAPTER VI

PROTECTION OF VICTIMS AND WITNESSES

SEC. 13. *Protection of Victims and Witnesses.* – In addition to existing provisions in Philippine law for the protection of victims and witnesses, the following measures shall be undertaken:

(a) The Philippine court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the court shall have regard of all relevant factors, including age, gender and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be

prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial;

(b) As an exception to the general principle of public hearings, the court may, to protect the victims and witnesses or an accused, conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of a victim of sexual violence or a child who is a victim or is a witness, unless otherwise ordered by the court, having regard to all the circumstances, particularly the views of the victim or witness;

(c) Where the personal interests of the victims are affected, the court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the court in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the court considers it appropriate in accordance with the established rules of procedure and evidence; and

(d) Where the disclosure of evidence or information pursuant to this Act may lead to the grave endangerment of the security of a witness or his/her family, the prosecution may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial.

SEC. 14. *Reparations to Victims.* – In addition to existing provisions in Philippine law and procedural rules for reparations to victims, the following measures shall be undertaken:

(a) The court shall follow principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision, the court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage,

loss and injury to, or in respect of, victims and state the principles on which it is acting;

(b) The court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation; and

(c) Before making an order under this section, the court may invite and shall take account of representations from or on behalf of the convicted person, victims or other interested persons.

Nothing in this section shall be interpreted as prejudicing the rights of victims under national or international law.

CHAPTER VII

APPLICABILITY OF INTERNATIONAL LAW AND OTHER LAWS

SEC. 15. *Applicability of International Law.* – In the application and interpretation of this Act, Philippine courts shall be guided by the following sources:

(a) The 1948 Genocide Convention;

(b) The 1949 Geneva Conventions I-IV, their 1977 Additional Protocols I and II and their 2005 Additional Protocol III;

(c) The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocol and its 1999 Second Protocol;

(d) The 1989 Convention on the Rights of the Child and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict;

(e) The rules and principles of customary international law;

(f) The judicial decisions of international courts and tribunals;

(g) Relevant and applicable international human rights instruments;

(h) Other relevant international treaties and conventions ratified or acceded to by the Republic of the Philippines; and

(i) Teachings of the most highly qualified publicists and authoritative commentaries on the foregoing sources as subsidiary means for the determination of rules of international law.

SEC. 16. *Suppletory Application of the Revised Penal Code and Other General or Special Laws.* – The provisions of the Revised Penal Code and other general or special laws shall have a suppletory application to the provisions of this Act.

CHAPTER VIII

JURISDICTION

SEC. 17. *Jurisdiction.* – The State shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:

(a) The accused is a Filipino citizen;

(b) The accused, regardless of citizenship or residence, is present in the Philippines; or

(c) The accused has committed the said crime against a Filipino citizen.

In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime. Instead, the authorities may surrender or extradite suspected or accused persons in the Philippines to the appropriate international

court, if any, or to another State pursuant to the applicable extradition laws and treaties.

No criminal proceedings shall be initiated against foreign nationals suspected or accused of having committed the crimes defined and penalized in this Act if they have been tried by a competent court outside the Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence.

SEC. 18. Philippine Courts, Prosecutors and Investigators. – The Regional Trial Courts of the Philippines shall have original and exclusive jurisdiction over the crimes punishable under this Act. Their judgments may be appealed or elevated to the Court of Appeals and to the Supreme Court as provided by law.

The Supreme Court shall designate special courts to try cases involving crimes punishable under this Act. For these cases, the Commission on Human Rights, the Department of Justice, the Philippine National Police or other concerned law enforcement agencies shall designate prosecutors or investigators as the case may be.

The State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this Act, receive effective training in human rights, International Humanitarian Law and International Criminal Law.

CHAPTER IX FINAL PROVISIONS

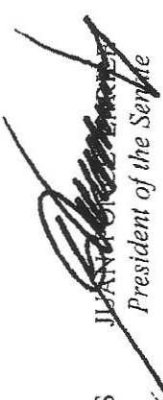
SEC. 19. Separability Clause. – If, for any reason or reasons, any part or provision of this Statute shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 20. Repealing Clause. – All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Statute are hereby repealed or modified accordingly.

SEC. 21. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

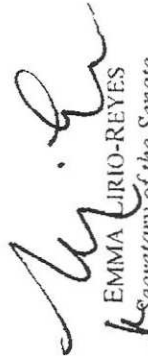
Approved,


PROSPERO C. NOGRALES
*Speaker of the House
of Representatives*


JUAN P. ENRIQUE
President of the Senate

This Act which is a consolidation of Senate Bill No. 2669 and House Bill No. 6633 was finally passed by the Senate and the House of Representatives on October 14, 2009 and October 16, 2009, respectively.


MARILYN B. BARUA-YAP
*Secretary General
House of Representatives*


EMMA LIRIO-REYES
Secretary of the Senate

Approved: **DEC 11 2009**


GLORIA MACAPAGAL-ARROYO
President of the Philippines



BACKGROUND ON RA 9851, THE "IHL LAW"*

By Atty. Soliman M. Santos, Jr.**

Co-Founder/Convenor, *Civil Society Initiatives for International Humanitarian Law* (CSI-IHL)

This is a backgrounder really on the new Republic Act No. 9851 signed into law on 11 December 2009, rather than on international humanitarian law (IHL), which is anyway taken up in the academe, esp. law school, whether as part of public international law or subjects on human rights. R.A. No. 9851 is **a breakthrough national law for the enforcement not only of IHL but also of human rights** -- even though, during its bill stage, it was popularly referred to as the "IHL Bill," and so now might be referred to as the "IHL Law." These short names tell us a bit about the historical background of this new law, including the issues surrounding its passage. I will be taking that up first in this backgrounder, and then proceeding to the general significance and potential of R.A. No. 9851, and then mainly presenting some of its key features. In the process, I will touch on the unusual nature of this new law, i.e. unusual to Philippine criminal law. I cannot but touch a bit on what could be emerging issues on R.A. No. 9851, the role of the International Committee of the Red Cross (ICRC), and a Mindanao perspective, but of course you would get a fuller discussion of that from the next speakers and also the open forum.

Brief Historical Background and Issues

R.A. No. 9851 has its direct origins in a legislative initiative of the Philippine National Red Cross (PNRC) IHL National Committee in the year 2002. At that time, after a broad survey of the national legal landscape on IHL, the Committee assessed that while a good number of significant post-World War II IHL treaties had been ratified by the Philippines, not much national implementing legislation had been passed. The ratified IHL treaties included, among others, the 1949 Geneva Conventions, its 1977 Additional Protocol II, and the 1980 Weapons Convention. On the other hand, the national implementing legislation consisted basically of just R.A. No. 95 (the PNRC Charter) and R.A. No. 7160 (Special Child Protection Act), Article X on Children in Situations of Armed Conflict.

In the ensuing legislative initiative of the PNRC IHL National Committee, backed by the ICRC, to draft a major legislative measure to implement IHL, its task force for this purpose eventually produced a draft bill for a "Philippine Statute on Crimes Against International Humanitarian Law" on the occasion of IHL Day (August 12) 2002. This is what has since been popularly referred to as the "IHL Bill." It was then heavily modeled on the 1998 Rome Statute of the International Criminal Court, which was at that point and still is considered the highest development of international criminal law. The Rome Statute conveniently embodied the latest international legal definition of war crimes, the proper concern of IHL, but it also had definitions for genocide and crimes against humanity -- which were all treated as "the most serious crimes of concern to the international community as a whole." So, the "IHL Bill" took the bargain of "buy one, take two," as it were. Strictly speaking though, genocide and crimes against humanity are seen mainly in the prism of human rights rather than IHL in international law. These two crimes have no nexus with armed conflict, unlike war crimes which have that context. Crimes against humanity and genocide, as with terrorism, can be committed during peace time, as well as during war time.

The "IHL Bill" was actually first filed as House Bill No. 6298 by Representative J. Apolinario L. Lozada, Jr. ("Jun Lozada" the senatorial candidate) on IHL Day (August 12) 2003 during the 12th Congress. Subsequent authors of several draft versions were Reps. Roseller L. Barinaga, Jr., Antonio V. Cuenco, Mario "Mayong" Joyo Aguja, Loretta Ann P. Rosales, Ana Theresia Hontiveros-Baraquel, and Senators Miriam Defensor Santiago in the 13th Congress; and finally Reps. Roilo S. Golez, Simeon A. Datumanong, Rufus B. Rodriguez, and Sens. Jinggoy

* Delivered at the Public Briefing on Republic Act No. 9851: *Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*, 3 March 2010, Benito Soliven Room, First Floor, Malcolm Hall, University of the Philippines College of Law, Diliman, Quezon City.

** Atty. Soliman M. Santos, Jr. is a Bicolano/Filipino human rights and IHL lawyer, legislative consultant and legal scholar who prepared all three drafts (2002, 2003, & 2006) of the "IHL Bill" which became R.A. No. 9851. He is a co-founder/convenor of the Civil Society Initiatives for International Humanitarian Law (CSI-IHL), and Coordinator of the Philippine Campaign to Ban Landmines (PCBL). He has an A.B. History *cum laude* from U.P., a LL.B. from the University of Nueva Caceres (UNC) in his hometown Naga City, and a LL.M. from the University of Melbourne. Contact details: Telefax (+632)7252153, Mob. (+63920)2903602, Email: gavroche23@gmail.com.

Ejercito-Estrada, Richard J. Gordon, Juan Miguel F. Zubiri, and Santiago again in the 14th Congress. That Sen. Gordon and Rep. Golez are both PNRC stalwarts definitely helped to clinch passage of the "IHL Bill" in this outgoing 14th Congress. The key Congressional Committee chairs, namely Sen. Francis "Chiz" G. Escudero and Rep. Matias V. Defensor, Jr. deserve credit for shepherding the bill all the way up to the third chamber, the Bicameral Conference Committee, in October 2009. Early in term of the 14th Congress in 2007, it had become a priority bill of the Legislative-Executive Development and Advisory Council (LEDAC). But all told historically, credit must also be given to the various human rights and IHL advocates in civil society as well as in government who had worked long and hard for the "IHL Bill."

To make a long story short, the "IHL Bill" went through both the legislative and executive wringer. If I might attempt to recall and summarize the substantive critical issues against the "IHL Bill," they tended to revolve around **certain concerns of the military/defense/ security establishment** such as these three critical issues:

- Whether *military and police operations against insurgents and terrorists will be hampered* by all these new and complicated rules.
- Whether military and police commanders and personnel would be subjected to multiple *harassment suits* (inc. double jeopardy) in both military and civil fora.
- Whether the *rebel groups* might be unwittingly granted "*belligerency status*" or take advantage of certain provisions to acquire the same (specifically the status of a "national liberation movement" under Protocol I, entitling them among others to "prisoner of war" status).

In fact, it is these kinds of concerns, even more than whatever **constitutional and criminal law issues**, that were the real stumbling blocks to the "IHL Bill." As for those legal issues, these three were the more critical ones:

- relationship with the *issue of Rome Statute ratification* by the Philippines, inc. whether this is a "backdoor" circumvention of non-ratification
- *conflict with certain Constitutional provisions* like Presidential immunity from suit, equal protection (e.g. double standards vis-a-vis other crimes), double jeopardy, Supreme Court rule-making prerogative
- *possible duplication, overlap, confusion and complication of Philippine criminal law*, inc. the Anti-Terrorism Law, the Juvenile Justice Law and then pending bills on torture and enforced disappearances

Because of time considerations, I will not discuss any more how some of these substantive critical issues against the "IHL Bill" were surmounted. Some of them will be addressed tangentially in the course of this presentation. I am sure some will also be addressed by the next speakers, esp. by Chamaine of ICRC. By 2007, if not earlier, ICRC embarked on a *purposive effort to engage or lobby the executive and the security sector at a high policy and decision-making level* and which ultimately bore fruit. 2007 was a watershed year not only in this purposive lobbying effort but also in the *unprecedented attention to the issue of extra-judicial killings* which was, to use current pop terms, the "*hot issue*" that year. Of course, for an issue to become a "hot issue," there is the indispensable role of media. All in that same year of 2007, we had the Melo Commission Report, the Alston Mission and Reports, and the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances convened by the Supreme Court. Relevant to all these is the wisdom articulated by Peter Herby, long-time Coordinator of the Mines-Arms Unit of the ICRC, when he said in the context of the Ottawa Treaty's total ban on victim-activated anti-personnel landmines that: "... In most case[s], it has been *the role of 'public conscience,'* the mobilization of public conscience, which has in fact been the driving force behind these prohibitions – whether of chemical weapons, biological weapons, blinding laser weapons or others."

In 2008, particularly after the aborted signing of the Memorandum of Agreement on Ancestral Domain (MOA-AD) in August, we of course had the major outbreak of armed hostilities between the Moro Islamic Liberation Front (MILF) and the Armed Forces of the Philippines (AFP) in Central Mindanao, resulting in the biggest new internal displacement globally for that year. And then towards the end of that year, the Communist Party of the Philippines (CPP), on the occasion of its 40th anniversary, set into motion a plan for a "qualitative leap" of the armed revolution, that involves the New People's Army (NPA) advancing "from the stage of strategic defensive to that of strategic stalemate" in its protracted people's war of *four decades*. *That we have been in this for that long on two major fronts of armed conflict* -- most intensely in Mindanao as Amina and Ruby will tell you -- *may be said to be the ultimate rationale for R.A. No. 9851, which in fact is long overdue.*

I hope that I had just been able to address on key points, why and how the “IHL Bill” and then the “IHL Law” had come about and had come to pass. I will now proceed to the new law’s ...

General Significance, Potential and Key Features

For the first time, in R.A. No. 9851, we have a national statute that defines and penalizes war crimes, genocide, and crimes against humanity. This could be *even more significant than R.A. No. 9745, the “Anti-Torture Act of 2009”* signed into law about a month earlier. To the credit of the 14th Congress and of the Arroyo administration, they have delivered this significant Pacquiao-like one-two punch for human rights and IHL during the “last round” of this Congress and administration before bowing out in mid-2010. This new law will enable the Philippines to prosecute the international crimes itself, contribute to an effective international criminal justice regime, strengthen its national criminal justice system, and generally bring its national law into conformity with international standards as well as up-to-date with important developments in international law.

It can no longer be said that the Philippines is “unable” to prosecute war crimes, genocide, and crimes against humanity for the simple reason that there is no Philippine law defining and penalizing these serious international crimes as such. Such inability could even justify the “complementary” (i.e. secondary) jurisdiction of the ICC over such crimes. The ICRC Advisory Service has said that “Criminal legislation is the most appropriate and effective means of dealing with all serious violations of IHL.” But, as we shall explain further down, R.A. No. 9851 is a **special law, not an amendment to the Revised Penal Code**, because this law is **not simply criminal law but also international criminal law, international humanitarian law and international human rights law**. *In practical terms, something like the “Maguindanao Massacre” can now be prosecuted as a crime against humanity rather than as a common crime of multiple murder.*

R.A. No. 9851 also comes at a time when it can provide some teeth to a new effort for a *civilian protection component* in the context of the peace process between the Government of the Republic of the Philippines (GRP) and the MILF. As a law which enforces both human rights and IHL, it can also co-relate on a parallel basis with the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) between the GRP and the National Democratic Front of the Philippines (NDFP), with more reason as there has been no standing ceasefire between them and as their Joint Monitoring Committee (JMC) mechanism has been perennially stalemated. The fact that R.A. No. 9851 is heavily informed by human rights and IHL, even if it is still a national law, could make those major rebel groups look at or treat it somewhat differently from the usual repressive laws and decrees of the state that they rail against. On another level, R.A. No. 9851 might also contribute to the proper balance between peace and justice, which should not be an either-or proposition.

The **most important features** of R.A. No. 9851 can be outlined as follows:

- Defining and penalizing war crimes, genocide, and “other crimes against humanity.”
- Applicability to all individual perpetrators, whether state agents or non-state actors (unlike the Anti-Torture Act which is limited to state-agent perpetrators).
- Applying certain international criminal law principles of irrelevance of official capacity (for immunities), responsibility of superiors (i.e. command responsibility), unlawful superior orders, and non-prescription, among others.
- Instituting a form of universal jurisdiction, albeit qualified.
- Providing for international standards for protection of victims and witnesses, as well as reparations to the former.
- Express applicability of international law, including of specific international treaties.
- Providing for the designation of special courts, prosecutors and investigators, and their effective training in human rights, IHL and international criminal law.
- No requirement of implementing rules and regulations (unlike the Anti-Torture Act)

I will no longer present R.A. No. 9851’s definitions of war crimes, genocide, and crimes against humanity, which more or less follow those in the Rome Statute, esp. for the last two crimes. We’ve noted though that R.A. No. 9851 uses the terminology “other crimes against humanity.” We can only surmise for now that Congress must have considered the preceding war crimes and genocide as also being “crimes against humanity” *in a loose or generic sense*. While all three crimes are now defined in the Rome Statute, each has its own international legal basis. For war crimes, it is mainly the 1949 Geneva Conventions and its 1977 Additional Protocols. For genocide, it is the 1948 Genocide Convention. And for crimes against humanity, it is customary international law. These original treaty and customary international law sources were emphasized in the later drafts of the “IHL Bill,” while reference to the more controversial and still unratified Rome Statute was deliberately toned down.

R.A. No. 9851’s **definition of war crimes**, however, differs with the Rome Statute’s definition in one significant aspect. In the clustering or categorizing of various acts which would constitute war crimes or “crimes against IHL,” R.A. No. 9851 contains relatively more war crimes for non-international armed conflict than does

the Rome Statute, which makes R.A. No. 9851 more useful for the Philippines where internal, rather than international, armed conflicts have been more relevant for quite some time now. But of course international armed conflict is also currently relevant to the Philippines, albeit mainly through its participation in various peace-keeping missions and forces. The difference between R.A. No. 9851 and the Rome Statute in terms of more war crimes applicable to internal armed conflict can be attributed to some guidance from the landmark three-volume 2005 ICRC highly authoritative study on customary IHL, its rules and state practice, in which some University of the Philippines (U.P.) Law professors and students had participated – among them Brod Raul. Perhaps the most significant finding or result of this study is that 146 of the 161 determined rules of customary IHL apply to both international and non-international armed conflict, thus expanding significantly the rules applicable to internal armed conflict, well beyond those in the 1977 Additional Protocol II.

Speaking of internal armed conflict, it is clear that for war crimes, genocide and “other crimes against humanity” under R.A. No. 9851, ***the perpetrators who may be held accountable for these serious international crimes are not limited to state agents and may include non-state actors*** – which is in accordance with the factual reality. Of course, liability is based on *individual* criminal responsibility of *natural*, not juridical, persons. But as we shall discuss shortly, there is also a form of command responsibility. We can note the role of “State or organizational policy” when it comes to “other crimes against humanity” and the role of “a State or a political organization” when it comes to enforced or involuntary disappearance of persons as part of “other crimes against humanity.” In other words, there are also individual leaders or commanders of certain organizations, whether state or non-state, who would be responsible for certain organizational policies or decisions that result in these crimes.

Torture and Enforced Disappearance: Questions of Definition

It will be noted that the specific act of torture is mentioned under war crimes and “other crimes against humanity” in R.A. No. 9851, while the specific act of enforced or involuntary disappearance of persons is mentioned under “other crimes against humanity” therein. Both acts are defined in this new law. Here “**torture**” is defined as “the intentional infliction of severe pain or suffering, whether physical, mental, or psychological, upon a person in the custody or under the control of the accused.” Quite significantly, unlike the definition of torture in the likewise new but slightly older R.A. No. 9745 (“Anti-Torture Act of 2009”), there are *no qualifications as to perpetrator* (“inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority”) *and as to purpose* (“for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind”). Clearly, the definition of “torture” in R.A. No. 9851 is of much wider application (inc. to non-state actors) than that in R.A. No. 9745.

Surely, this is a *less than ideal* situation of two Philippine statutes having two different definitions of torture, even if these are applied to two different situations: torture *per se* (apply R.A. No. 9745 and its definition) and torture *as part of* war crimes or “other crimes against humanity” (apply R.A. No. 9851 and its definition). Eventually, those definitions will have to be harmonized one way or the other. The “root cause” of this discrepancy lies in the definition models used by R.A. No. 9745 and by R.A. No. 9851, respectively, namely the different definitions of torture in the 1984 Convention Against Torture and in the 1998 Rome Statute. Interestingly, a new House Bill No. 7199 was filed by Anak Mindanao Rep. Ariel Caringal Hernandez only last February 22 seeking the amendment of R.A. No. 9745, so that its definition of torture and consequent application are not limited to state-agent perpetrators and their victims. And for this purpose, the amendatory bill invokes and adopts R.A. No. 9851’s definition of torture.

That kind of discrepancy regarding the definition of torture could be “replayed” when it comes to still another new human rights and IHL-related law, that on **enforced disappearance**. In R.A. No. 9851, “enforced or involuntary disappearance of persons” is defined as “the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.” Note “*State or a political organization*,” with the latter clearly indicating that this *could be perpetrated by a non-state armed group*. This was modeled on the definition of “enforced disappearance of persons” in the Rome Statute.

The pending bills in Congress for an “Anti-Enforced or Involuntary Disappearance Act,” however, invariably carry the qualification “committed by government authorities or by persons or groups of persons acting with the authorization, support or acquiescence of such person in authority” – in short, state agents. This is modeled on the definition of “enforced disappearance” in the 2006 International Convention for the Protection of all Persons from Enforced Disappearance. It remains to be seen how an “Anti-Enforced or Involuntary Disappearance Act” will take final shape in its definition of the crime, given the already existing definition in R.A. No. 9851.

Command Responsibility and Universal Jurisdiction: Cutting-Edge Principles

At this point, I will just single out two particularly important principles of international criminal law that have been enshrined, among others, in R.A. No. 9851, namely command responsibility and universal jurisdiction. R.A. No. 9851 quite significantly provides for **command responsibility** as an operative principle of criminal liability *for the first time on the level of a national statute* through a provision on **responsibility of superiors**, thus: “a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

- (a) The superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes; and
- (b) The superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.”

While the context of this provision refers to war crimes, genocide, and “other crimes against humanity” under R.A. No. 9851, this *sets a statutory precedent for its extension to the cases of other serious crimes* like torture, enforced disappearances, and extrajudicial killings in the corresponding special laws, if any, on such crimes. This Philippine statutory codification of the doctrine of command responsibility, we might say, is only fitting because the roots of the doctrine are usually traced to the 1946 ruling in the *Yamashita* case – as Harry would point out –for atrocities committed by the Japanese armed forces in the Philippines during the Second World War, albeit the relevant ruling is the one by the U.S., not the Philippine, Supreme Court. In its status as a national statute providing for a clear concept of command responsibility as a basis for criminal liability, R.A. No. 9851 was a major step forward in acting on the several related recommendations of the 2007 Melo Commission Report, Alson Mission Report and National Consultative Summit on Extrajudicial Killings and Enforced Disappearances.

Also significant in R.A. No. 9851 is the provision on **jurisdiction** which might be characterized as a **qualified universal jurisdiction**. On one hand, the State shall exercise jurisdiction over war crimes, genocide, and “other crimes against humanity” *regardless of where the crime is committed*. On the other hand, *there has to be a nexus to the Philippines*, whereby the accused is a Filipino citizen, or is present in the Philippines, or has committed the crime against a Filipino citizen. But the second condition, *whereby the accused is present in the Philippines*, brings this quite close to full universal jurisdiction. Such an accused could be a foreigner who has committed the crime against another foreigner and has done so outside the Philippines, but who has come to be present in the Philippines – the State can then exercise jurisdiction over him.

Universal jurisdiction is actually explained in R.A. No. 9851’s Declaration of Principles and State Policies: “The most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.” The idea is to allow for “**justice without borders**” so that there are “**no safe havens**” for war criminals and the like.

Applicability of International Law, and Effective Training

I come now to the final part of this backgrounder. R.A. No. 9851 provides that *in its application and interpretation*, Philippine courts shall be guided by the following **international law sources**:

- (a) The 1948 Genocide Convention;
- (b) The 1949 Geneva Conventions I-IV, their 1977 Additional Protocols I and II and their 2005 Additional Protocol III;
- (c) The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocol and its 1999 Second Protocol;
- (d) The 1989 Convention on the Rights of the Child and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict;
- (e) The rules and principles of customary international law;
- (f) The judicial decisions of international courts and tribunals;
- (g) Relevant and applicable international human rights instruments;
- (h) Other relevant international treaties and conventions ratified or acceded to by the Republic of the Philippines; and
- (i) Teachings of the most highly qualified publicists and authoritative commentaries on the foregoing sources as subsidiary means for the determination of rules of international law.

No other Philippine statute has shown this much adherence to international law. Certainly not the Philippine anti-terrorism law R.A. No. 9372 which, instead of making reference to the 12 international anti-terrorism conventions as it should have, makes reference to 12 Revised Penal Code provisions and special laws. Unlike R.A. No. 9851 having a section on Applicability of International Law, what R.A. No. 9372 has is a section on Applicability of the Revised Penal Code – a 1932 domestic law which is basically an extension of the Spanish Penal Code of 1870, being applied to post-9/11, 2001 terrorism!

Among the various major treaty sources of R.A. No. 9851, several have actually *not yet been ratified by the Philippines*: the 1954 Hague Convention for the Protection of Cultural Property, the 1977 Additional Protocol I of the 1949 Geneva Conventions, and the 1998 Rome Statute. Their not yet being ratified rightly did not bar the sovereign Philippine Congress, in the exercise of its plenary legislative power, from adopting some of their provisions into the national criminal law. Indeed, the ICRC Advisory Service has said, “When these offenses are separately defined in national criminal law, the independence of this definition of international law can permit the repression of a breach of one of the treaties (e.g. Additional Protocol I), even if the treaty has not been ratified by the prosecuting State.” Ratification has another function, which is to bind the Philippines with a particular international treaty regime, in terms of both obligations and benefits. And so, because the Philippines has not yet ratified the Rome Statute, it is not yet part of the ICC system.

But the above-indicated sources are not only treaty international law but also “the rules and principles of customary international law.” R.A. No. 9851’s Declaration of Principles and State Policies lays the basis for this through this particular paragraph: “The state adopts the generally accepted principles of international law, including the Hague Conventions of 1907, the Geneva Conventions on the protection of victims of war and international humanitarian law, as part of the law of our nation.” This paragraph is actually a restatement of the 1949 Philippine Supreme Court ruling in the *Kuroda* case of another Japanese war criminal in the Philippines that “the rules and regulations of the Hague and Geneva conventions form part of and are wholly based on the generally accepted principles of international law... Such rules and principles, therefore, form part of the law of our nation even if the Philippines was not a signatory to the conventions embodying them.”

In other words, as far as the primary IHL treaties like the Hague and Geneva Conventions are concerned, the rules and regulations therein are already deemed incorporated into Philippine law. Therefore, *in a sense, R.A. No. 9851 merely “re-legislated” these rules and regulations for clarity and updating, and also because the treaties themselves require domestic penal legislation. It consolidated those principles, rules and regulations in one comprehensive law in so far as the domestic penal aspect of serious international crimes is concerned.* In fine, R.A. No. 9851 is a marriage of national criminal law and aspects of international law. The result is a *different framework from pure or ordinary criminal law.* This different framework is justified by the difference between common crimes and serious international crimes – just as different diseases require different medical treatment.

Under R.A. No. 9851, the State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this Act, receive **effective training in human rights, international humanitarian law and international criminal law**. Thus, this new law can and should be *a catalyst for the infusion of more international law (and thus more cosmopolitan and less parochial) consciousness among Filipino lawyers and law students* through the law curriculum and continuing legal education. This can be considered part of a broader educational and consciousness-building effort on IHL and human rights which is crucial for their implementation and enforcement, in conjunction with criminal prosecution. No less than outgoing Chief Justice Reynato S. Puno has referred to IHL as a “neglected aspect of international law in our jurisdiction.”

The true test of R.A. No. 9851 is of course in the practice of adherence, implementation and enforcement. This starts with an appreciation of its breakthrough nature and features for the enforcement of IHL and human rights. It also leads the way now for the easier passage of other more specific IHL-related legislation like the still pending bills on landmines and on internal displacement, and the still pending ratification of the 1977 Additional Protocol I and the 1988 Rome Statute..

Though penal sanctions are indispensable to ensure respect for IHL and human rights, such sanctions are insufficient in themselves to put an end to acts contrary to IHL and human rights. These norms need to be placed within a suitable regulatory framework which will lay down the behavior complying with or prohibited by IHL and human rights. In sum, the Philippines through R.A. No. 9851 may be said to be *availing of the best that has been created by humanity in terms of international law to prevent and punish the worst acts of inhumanity.* Availing of “the best that has been created by humanity” is also surely part of teaching, learning and doing law “in the grand manner.”

Thank you.

Civil Society Initiatives for International Humanitarian Law
CSI-IHL Members

1. The Philippine Coalition for the International Criminal (PCICC)
2. Balay Rehabilitation Center Inc. (BALAY)
3. Sulong CARHRIHL (Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law)
4. Philippine Coalition to Protect Children Involved in Armed Conflict (Protect CIAC)
5. Philippine Action Network on Small Arms (PhilANSA)
6. Philippine Campaign to Ban Landmines (PCBL)
7. Philippine Society for International Humanitarian Law (PSIHL)

Executive Order (E.O.) 134 IHL Adhoc Committee
Institutional Members

Chairman : Department of Foreign Affairs (DFA)
Department of National Defense (DND)

Members : Commission on Human Rights (CHR)
Department of Justice (DOJ)
Department of Interior and Local Government (DILG)
Armed Forces of the Philippines (AFP)
Philippine National Police (PNP)
Office of the Presidential Adviser on the Peace Process (OPAPP)
International Committee of the Red Cross (ICRC)
Philippine National Red Cross (PNRC)

60th Anniversary of the Geneva Conventions
National Summit on International Humanitarian Law

SEAMEO-Innotech, Commonwealth Avenue

Diliman, Quezon City

August 12, 2009

LIST OF PARTICIPANTS

I. Diplomatic Corps

BECK, Sylvia	Embassy of Germany
CALAYAG, Ronald	Counsellor & Development Assistant, Embassy of Switzerland
CASSERINI, Juerg	Deputy Head of Mission, Embassy of Switzerland
CHITTICK, Sam	Embassy of Australia
HARASICH, Ovid	Embassy of Chili
ISMAIL, Sharul Annaz	Second Secretary, Embassy of Brunei Darussalam
KI-SUNG, Ohm	Minister and Consul General, Embassy of Korea
LAAKONEN, Teemu	Embassy of Finland
MARCH ANITO, Bethany	Embassy of Mexico
ROUZBEHANI, Ali Majtaba -	Embassy of Iran
SENIUK, Mark	Second Secretary, Embassy of Canada
VAN DE HAAR-CONJIN	Deputy Head of Mission, Embassy of the Netherlands

II. Government Organizations

ABRINA Jean Ivy	Commission on Human Rights (CHR)
ANZANO Teresita G.	Commission on Human Rights
ARMEDILLA Gregorio Dante	Commission on Human Rights
ATILANO, Flora C.	Commission on Human Rights
AZAS, Arabella	Commission on Human Rights
BAGTAS, Cristi	Commission on Human Rights
BASILIO, Vicenta R.	Commission on Human Rights
BORJA, Valentina	Commission on Human Rights
CACATIAN, Khristine Lorraine	Commission on Human Rights
CALAMBA, Dominick E.	Commission on Human Rights
CANAPI Brenda	Commission on Human Rights
CAPIN, Frederick Ian	Commission on Human Rights
CHAUHAN Anita M.	Commission on Human Rights
CRISOSTOMO, Martha T	Commission on Human Rights
CRUZ Marie P.	Commission on Human Rights
CUDAL Marilou M.	Commission on Human Rights

DAVID, Catrina	Commission on Human Rights
DELOS ANGELES, Ray Anthony	Commission on Human Rights
DORONA, Psyche	Commission on Human Rights
DY, Joan B.	Commission on Human Rights
EVANGELISTA, Marie Jean	Commission on Human Rights
FALCON, Banuar	Commission on Human Rights
FLORES Alexander	Commission on Human Rights
GARAY, Epifania O.	Commission on Human Rights
INTONG, Manuel Raul B.	Commission on Human Rights
KU, Christopher	Commission on Human Rights
LAGGUI, Shella N	Commission on Human Rights
LEDESMA, Leonor	Commission on Human Rights
MAGBOO, Nolasco M.	Commission on Human Rights
OFRENEO, Ana Elzy E.	Commission on Human Rights
ORQUEZA, Cynthia D.	Commission on Human Rights
PUNZALAN, Erwin	Commission on Human Rights
RATERTA, Lucia Corazon	Commission on Human Rights
RAVINA, Maria Clara, Ph.D	Commission on Human Rights
ROXAS, Adelaida	Commission on Human Rights
ROXAS, Ma. Corazon	Commission on Human Rights
AGUILAR, Caridad Col.	Philippine Air Force, AFP
JOSE, Benedicto M. Col.	Provost Marshall, Phil. Army, AFP
LOY, Jose FB, Jr. Lt. Col.	Human Rights Office, AFP
SARMIENTO, Lina PCSpt	Philippine National Police
DIA, Gerardo P/Supt.	Human Rights Affairs Office, PNP
BEATO, Christina	Government of the Philippines –Monitoring Committee
ESTRELLADO, John	Government of the Philippines –Monitoring Committee
WAYAS, Editha	Government of the Philippines –Monitoring Committee
ZARATE, Jeffrey	Government of the Philippines –Monitoring Committee
ASUNCION, Rolly	Office of the Presidential Adviser on the Peace Process
IBO, Melody Grace	Office of the Presidential Adviser on the Peace Process
PAPA, Ma. Cecilia	Office of the Presidential Adviser on the Peace Process
ENRIQUE, Red Garcia	Department of the Interior and Local Government
GLORIA, Ricardo V.	Department of Labor and Employment
PEREZ, Jose P.	Supreme Court
JACOB, James	Commissioner, PAGC
GARCIA, Evan P.	Department of Foreign Affairs
CABRERA, Ma. Carmela Teresa -	Department of Foreign Affairs
ALIGMANO, Garry	Department of Science and Technology
BACTAD, Cesar Jr.	Department of National Defense
VALENZUELA, Alberto Jr. -	Undersecretary, Department of National Defense
CATARATA, Arturo	House of Representatives
JUGUILON, Vichel	National Commission on the Role of Filipino Women
DUNUAN, Evelyn, S.	Commissioner, National Commission on the Role of Filipino Women

III. Non-Government Organizations

FERRER, Miriam C.	Sulong CARHRIHL
GALACE, Jasmin N.	Sulong CARHRIHL
REYES, Joven	Sulong CARHRIHL
GALACE, Jasmin N	Sulong CARHRIHL
CABALIYAN, Egay.....	Task Force Detainees of the Philippines
AGUINALDO BANS, Jun.....	Initiatives for International Dialogue
TUYOS, Elenita.....	Philippine National Red Cross
TORRES, Dancelle	The Asia Foundation
GALANG, Roi Andrei S.....	CPRA
KHAN, Arif Jabbar	Oxfam Foundation
CONSTANTINO, Karla	Oxfam Foundation
ESTEJERO, Corazon	Families of Victims of Involuntary Disappearance
MANUEL, Marlon J.	Alternative Law Group
UJANO, Sally	PACT, Inc.
ABANA, Gwen	Partido ng Manggagawa
REMONDE, Marit S.....	Kiwanis, VisMin
NABIA, Arnold Sr.	Balay Rehabilitation Center
DELA CRUZ, Ma. Corazon	Balay Rehabilitation Center
ANASARIAS, Ernesto	Balay Rehabilitation Center
OLAYER, Toling	Balay Rehabilitation Center
UGAY, Analiza T.	Balay Rehabilitation Center
VALERIO, Daisy	Nilo Valrio Foundation
FONFERRADA, Jonathan	Philippine National Red Cross
CAALIM, Jonathan V.	Asia Pacific Youth Network
AQUINO, Emilia	Asian Federation Against Disappearances
CHANG, Jordan	Women's Legal Bureau
OROSCO, Beverly.....	PhilANSA
DELFIN, Nikki	GenPeace
SAEB, Aman Mowol	GenPeace
VALDERAMA, Lina	Coalition for Int'l. Criminal Court-Asia
LOZADA, Rebecca.....	Coalition for Int'l. Criminal Court-Asia
CARRANZA, Danilo I	BBP-Phil. Coalition for Int'l. Crim Court
DIEZ, Candy	Phil. Coalition for Int'l. Criminal Court
ZARATE, Ayette	Phil. Coalition for Int'l. Criminal Court
DE JOYA, Cecil.....	Medical Action Group
ESRAEL, Laarnie	ZOTO
INCIONG, Jhoan Andrie	U.P. Law Center
TANADA, Karen	Gaston Z. Ortigas Peace Institute
PAPA, Wilnor	Amnesty International
BALLARD, Mychine	Amnesty International
DIP, Ail	International Committee of the Red Cross

IV. Resource Persons

ANASARIAS, Ernesto A.	CSI-IHL Governor/ /Executive Director, Balay Rehabilitation Center
CANDELARIA, Sedfrey M.	Chairman, GRP- Joint Monitoring Committee /Ateneo de Manila University College. Of Law
CASSERINI, Juerg	Charge d' Affairs, Embassy of Switzerland
CORONEL-FERRER, Miriam	Sulong CARHRIHL
DELA CRUZ, NORBERTO	Commissioner, CHR
ENERVA, Chamaine A	Legal Officer, International Committee of the Red Cross
ERMITA, Eduardo R.	Executive Secretary, Office of the President
GARCIA, Evan	Assistant Secretary, Department of Foreign Affairs
MAMAUAG, Jose Manuel S.	Commissioner, CHR
MERCADO, Lan	Country Director, OXFAM Foundation
OLAYA, Yul	Mindanao Bantay Ceasefire
OFRENEO, Ana Elzy E.	Director, HR Education & Research Office, CHR
PINTOR, Marilyn	Human Rights Director, CHR CARAGA Region
QUISUMBING, Cecilia Rachelle	Commissioner, CHR
TAÑADA, Karen	Executive Director, GZO Peace Institute, CSI-IHL
VALENZUELA, Alberto C.	Under Secretary, Department of National Defense

V. Media

ABELLANA Ivan	Sonshine TV 39
FABULAR, Jason	Sonshine TV 39
SANTOS, Jhonel	Sonshine TV 39
ABOGADO, Jhun	UNTV 37
CERRUDO, Bert	UNTV 37
ONAYAN, Jojo	UNTV 37
AFRICANO, Janette	Pinas Newspaper
CALADO, Alexius	ABS-CBN
DIZON, Nikko	Inquirer
MARTINEZ, Ruy	Manila Times
MEMOZA, Bernard	DZAR
OLEN, Ronalyn	Bulatlat
TEVES, Ina	OPS
TUPAS, Emmanuel	Manila Chamber

VII. Organizers:

Chairperson Leila de Lima	CHR
Comm. Cecilia Rachel Quisumbing	CHR
Dir. Ana Elzy E. Ofreneo	CHR
Ms. Epifania O. Garay	CHR
Ms. Rebecca Lozada	CSI-IHL
Mr. Ernesto Anazarias	CSI-IHL
Ms. Candy Deiz	CSI-IHL
Ms. Analiza Ugay	CSI-IHL
Ms. Teresita G. Anzano	CHR
Mr. Dominick Calamba	CHR
Ms. Marie Jean V. Evangelista	CHR

ABBREVIATIONS

AFP	Armed Forces of the Philippines
BALAY	Balay Rehabilitation Center Inc.
CARHRIHL	Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law
CET-NIACHR	Committee on Education and Training under the National Inter-Agency Chamber of Human Rights
CHR	Commission on Human Rights
CIAC	Children in Armed Conflict
CPP	Communist Party of the Philippines
CPR	Civil and Political Rights
CSI-IHL	Civil Society Initiatives on International Humanitarian Law
ESCR	Economic, Social and Cultural Rights
GRP-JMC	Government of the Republic of the Philippines – Joint Monitoring Committee
HR	Human Rights
HRE	Human Rights Education
ICRC	International Committee of the Red Cross
IDPs	Internally Displaced Persons
IHL	International Humanitarian Law
IPs	Indigenous Peoples
IPRA	Indigenous Peoples Rights Act
LGUs	Local Government Units
MILF	Moro Islamic Liberation Front
MOA	Memorandum of Agreement
NDF	National Democratic Front
NPA	New People's Army
NSAG	Non-State Armed Group
PCBL	Philippine Campaign to Ban Landmines
PCICC	Philippine Coalition for the International Criminal Court
PhilANSA	Philippine Action Network on Small Arms
PNP	Philippine National Police
Protect CIAC	Philippine Coalition to Protect Children Involved in Armed Conflict
PSIHL	Philippine Society for International Humanitarian Law
RO	Regional Office
RoE	Rules of Engagement
SOMO	Suspension of Offensive Military Operations
SOMA	Suspension of Offensive Military Actions
UN	United Nations

CHR REGIONAL OFFICES

ATTY. GILBERT D. BOISER

Director IV, National Capital Region

SAAC Bldg., U.P. Complex, Commonwealth Ave.,
Diliman, Quezon City
Tel. 928-7098 / Telefax 925-3881
chr_ncr@skyinet.net

ATTY. ANITA MAGBITANG-CHAUHAN

Director, Region I

2nd Floor, Francisco Ting Building
National Highway, Pagdalagan Norte
San Fernando City, La Union
Tel. (072) 700-3607 / Telefax 700-3608/888-3216
chr1sflu@yahoo.com / nitz_ph2004@yahoo.com

ATTY. HAROLD D. KUB-ARON

Officer-In-Charge, Cordillera Adm. Region (CAR)

3rd Floor, SSS Building
2600 Harrison Road, Baguio City
Tel. (074) 619-9089 / Telefax 619-9088
chrp_car@yahoo.com

ATTY. JIMMY P. BALIGA

Director, Region II

Chua Bldg., Mabini St., cor. Gonzaga St.
3500 Tuguegarao City, Cagayan
Tel. (078) 844-0942 / Telefax 844-0810 / 846-4863
antonccruz_1966@yahoo.com.ph

ATTY. JASMIN N. REGINO

Director, Region III

3rd Floor, Kehyeng Bldg., McArthur Highway,
2000 Dolores, San Fernando, Pampanga
Tel. (045) 961-4830 / Telefax 961-8577
chrreg3@yahoo.com / attyjnr@yahoo.com

ATTY. CRESENCIA V. PEDROSA

Director, Region IV

Con-Mer Bldg, Barangay San Roque
4000 San Pablo City
Tel. (049) 562-5415
chr4_sanpablo@yahoo.com

ATTY. PELAGIO P. SEÑAR, JR.

Director, Region V

ANST Building, Washington Drive
4500 Legaspi City
Telefax (052) 820-5131
pelagiopseñarjr@yahoo.com

DAVID M. BERMUDO

Director, Region VI

2nd Floor, DBP Bldg., De la Rama Street
5000 Iloilo City
Tel. (033) 336-2264 / Telefax 337-8019
dmbermudo@yahoo.com / chr.region6@yahoo.com

ATTY. ALEJANDRO P. ALONSO, JR.

Director, Region VII

Rosal Apartment cor. Llorente & Rosal Sts.
6000 Capitol Site, Cebu City
Tel. (032) 253-5403 / Telefax 254-6921
chr7cebuph@yahoo.com

ATTY. PAQUITO M. NACINO

Director, Region VIII

Okey Commercial Complex, P. Paterno St.,
6500 Tacloban City
Telefax (053) 321-3903
chrtac8@yahoo.com

ATTY. JOSE MANUEL S. MAMAUAG

Director, Region IX

2nd Floor, Phil. Veterans Bank Building
cor. Gov. Lim Ave., & Saavedra Street
7000 Zamboanga City
Tel. (062) 993-0735 / Telefax 993-2869
chr9_04@yahoo.com

ATTY. JEANNE IVY F. ABRINA

Officer-In-Charge, Region X

2/F Ong's Bldg. cor. Yacapin Ext & Roxas St.
9000 Cagayan de Oro City
Telefax (08822) 724-525
chr10@yahoo.com

ATTY. ALBERTO B. SIPACO

Director, Region XI

Trinity II Building, Quimpo Boulevard
8000 Davao City
Tel. (082) 298-3479 / Telefax 298-2233
chrxi@skyinet.net
chrdavao@yahoo.com

ATTY. QUINCiano V. BUENO

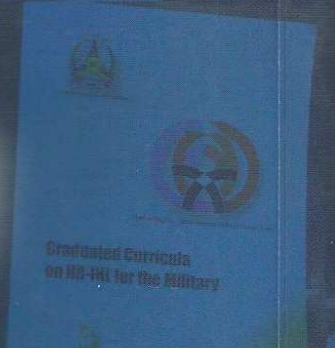
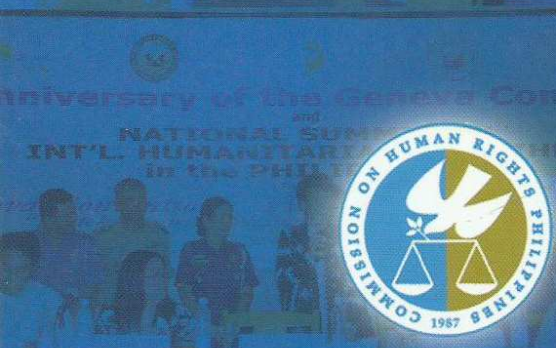
Officer-In-Charge, Region XII

Arellano Street
Koronadal City
Telefax No. (083) 520-0615
chr12_korcity@yahoo.com

ATTY. MARYLIN M. PINTOR

Director, CARAGA Office

2nd Floor, CAP Building
J. C. Aquino cor. J. Rosales Avenue,
8600 Butuan City
Tel. No. (085) 815-2247 / Telefax 342-5280
chr_caraga@yahoo.com
atty_mmp@yahoo.com



**COMMISSION ON HUMAN RIGHTS
OF THE PHILIPPINES**
(Komisyon ng Karapatang Pantao ng Pilipinas)

SAAC Bldg., U.P. Diliman, Quezon City 1101 Philippines
Telefax Nos.: (+632) 928 4471 / (+632) 927 6225
Website: www.chr.gov.ph

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Embassy of Switzerland