

Itaguyod ang IHL: Sibilyan Pangalagaan

TOWARDS A PHILIPPINE PROGRAM
OF ACTION ON EFFECTING
INTERNATIONAL HUMANITARIAN LAW

Proceedings of the
Second National
Summit on
**International
Humanitarian Law**
IN THE PHILIPPINES

11 December 2012
Malacañan Palace, Manila, Philippines



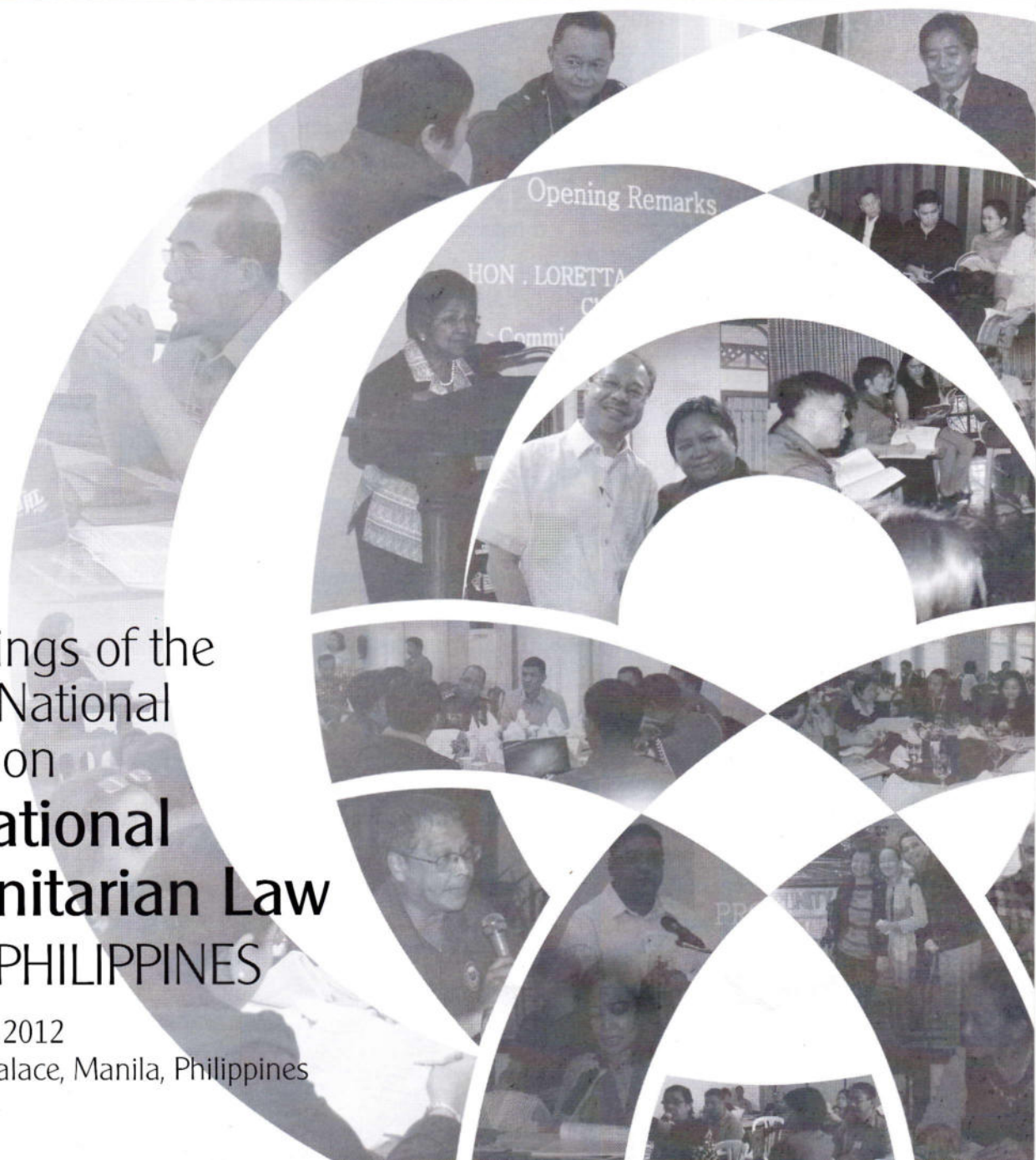
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Proceedings of the Second National Summit on
International Humanitarian Law in the Philippines

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MESSAGE

This year's theme—*Towards a Philippine Program of Action on Effecting International Humanitarian Law*—stems from the participants' recommendations during the first international humanitarian law (IHL) national summit in 2009. Stressing the need to institutionalize IHL in the Philippines, it was a fitting focus for the achievements we have attained so far.

Foremost of these is the enactment of Republic Act No. 9851, also known as the Act on Crimes against International Humanitarian Law, Genocide and other Crimes against Humanity, on 11 December 2009. It is the centerpiece legislation showing the Philippine's adherence to the principles of IHL. It is also quite noteworthy that the related domestic legislation of an act penalizing torture and other cruel, inhuman and degrading treatment or punishment, Republic Act No. 9745, was also enacted on 10 November 2009.

Since the last summit, activities and projects have been undertaken upon the initiative of the Commission in consultation with a number of experts.

We have conducted the first training for lawyers and investigators to equip them with specialized knowledge in investigating and prosecuting crimes punishable under the IHL law. A hand book for investigators and lawyers on violations of human rights, war crimes, crimes against humanity and genocide was also realized.

A number of cases have already been completed; these will be submitted to the Department of Justice or to the courts. We also hope to share some of the cases to the diplomatic community and to the media. The CHR just finished the investigation of the Leonard Co case and had sent the report to the various stakeholders. In that case alone, we feel that there are a number of issues touching IHL questions that should be scrutinized since there is this lack of consciousness of IHL principles and laws. A lot of these cases can actually be studied and analyzed to bring out some of the lessons that we can learn.

Last November, a roundtable discussion on R.A. 9851 implementation actions among various government stakeholders was an enlightening experience as it pointed out institutional successes and shortcomings in implementing the law. The Commission has also been exploring possible collaborations with institutions, such as the UP Institute for International Legal Studies, wherein the CHR was invited as a resource office for the Institute's efforts to harmonize R.A. 9851 with the Rome Statute through legislative amendments. We are also in talks with the Philippine Judicial Academy to come up with an agreement to assist the institution in training judges serving in courts that have jurisdiction over offences defined by R.A. 9851.

These are but few of the many efforts pursued by the CHR to inculcate adherence to IHL in armed conflict and in prosecuting grave crimes under international law. It has not been easy, but the CHR has been tirelessly working on its responsibilities under RA. 9851, bringing to life the recommendations raised by the summit participants, sometimes not very efficiently, but always thinking that we always do our best.

We have to ensure that policy is operationalized among all uniformed and non-uniformed duty bearers. Particular to National Human Rights Institutions such as the CHR, this should be born out of a deeper understanding of its niche in the larger scheme of things. In terms of service provision, it is imperative for CHR to upgrade competencies in investigation, research and communication; to more actively monitor human rights violations and IHL cases, and to deepen its commitment to human rights and its accountability to the public, especially the vulnerable and powerless.

With the Executive Department's Administrative Order No. 35, we are encouraged by the idea that there will be a good inventory and review of unresolved cases of the past and current administration. An Implementing Rules and Regulations (IRR) to rationalize the relationships between and among the members of the Executive Department, the Commission on Human Rights and the Ombudsman would be very helpful. We also have to clarify relationships when it comes to the constitutional mandate which belongs to the CHR with respect to the investigation of new cases of humanitarian rights violations.

Despite the difficulties, the CHR has come together with Armed Forces of the Philippines and their Service Commands—the Army, Air Force and the Navy, with the Philippine National Police, with the Bureau of Jail Management and Penology (BJMP) and with the National Police Commission, convening and coming out with a united declaration and plan of action. We will be breaking down complaints—human rights violations allegedly committed by the police, filed against the military, the police, as well as the BJMP. We are now verifying and validating each and every accusation that has come to the regional offices of the CHR.

Let the public be assured of our continued efforts and steadfast support for endeavors that will give life to a National IHL Action Plan. But the devil is in the details. We have to scrutiniize all cases and respond appropriately to uphold accountability and justice. This is our challenge and commitment.

Loretta Ann Pargas-Rosales

Chairperson, Commission on Human Rights (CHR)

(Excerpted from the Welcome Remarks delivered by the CHR Chair at the Summit)



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EXECUTIVE SUMMARY

A. Summit Background

The Commission on Human Rights (CHR), the Presidential Human Rights Committee (PHRC), the Philippine Coalition for the International Criminal Court (PCICC), and the Executive Order 134 AdHoc Committee jointly organized and sponsored the 2nd IHL Summit on 11 December 2012 at the Social Hall, Mabini Bldg of Malacañang as a follow up to the 1st National IHL Summit in 2009.

The summit day marks the third year anniversary of Republic Act 9851 or the “Philippine Act on Crimes Against International Humanitarian Law” into law. The landmark legislation was among the developments that were seen to require the holding of a second summit.

B. Summit Objectives

The December Summit was launched with this general objective—to come up with a National IHL Program of Action that for a definite time frame will serve as the reference point for various stakeholders in their activities. Armed with added inputs from the August 2012 RTD, the 2012 Summit participants undertook the following:

- A review of the agreements arrived at during the First National IHL summit and the actions taken by government and civil society since then for IHL compliance.

- Identification of effective measures that will address challenges and difficulties related to IHL compliance.
- Drafting and finalization of an IHL National Action Plan, the need for which had already been articulated in the Communiqué of the First National Summit.

C. Keynotes of the Summit and Pre-Summit Roundtable Discussion

The First National IHL Summit in 2009, as expressed in its Communiqué, affirmed its commitment to the principles of international humanitarian law, took a hard look at the country's record in observing its standards and norms, and committed itself to move forward in its compliance.

At the Second National IHL Summit held 11 December 2012 and 14 August 2012 IHL Roundtable Discussion, Prof. Harry Roque and Judge Soliman Santos Jr., keynote speakers respectively, pointed to the strategic victories in human rights and IHL advocacy work achieved since the 2009 Summit.

Most notable were the passage of the national IHL law (RA 9851), Senate concurrence with the ratification of the Rome Statute of the International Criminal Court, approval of the Anti-Enforced Disappearance Law and Framework Agreement on the Bangsamoro (FAB), a National Action Plan

on women involved in armed conflict, as well as a tangible, positive shift in both mindset and relationship of government and civil society about IHL in particular, and human rights in general.

Prof. Roque said that civil society, once excluded, is now considered as a genuine partner of government in the implementation of state obligations under IHL. The development puts the country in a better position to discharge our obligations to investigate and punish those who commit international crimes. The task at hand requires that the domestic legal system is able to investigate, prosecute and punish those who commit war crimes and crimes against humanity.

On the other hand, it was also pointed out during the discussions that the devil is in the details—in the actual realization of the spirit and letter of the IHL law. Difficult and lingering challenges have been identified in three thematic work areas—IHL education, information and communications; monitoring, investigation and prosecution; and humanitarian intervention.

What is needed for real IHL compliance is no longer just a listing of issues and action points, but the delineation of specific tasks, who will do them, when and how, and how people will relate to and work with each other. As Judge Santos explained, we must reach for the next higher stage, starting with the framing of a National IHL Action Plan that will harmonize the activities of IHL multi-stakeholders. Of course the ultimate challenge, as articulated by Commission on Human Rights Chair Loretta Ann Pargas-Rosales, is how we can transform IHL from a “purely academic field of study” and strive for the day when armed conflicts have ceased to be and lasting peace is achieved with and through social justice.

D. Reports on Thematic Work Areas

1. EDUCATION, INFORMATION AND COMMUNICATION ON IHL

This thematic work area is viewed as the main preventative measure against IHL

violations. The security sector constitutes the most strategic group in the prevention of IHL violations. Its compliance will rely, to a large extent, on how extensively and deeply IHL principles and the rule of the law permeate military doctrine and operational thrust and guidelines. Education on international humanitarian law must also extend to the general public, especially to communities and peoples located in existing conflict areas.

Issues and Points Raised:

- o Review of the AFP manual on human rights and IHL
- o Standardization of an IHL curriculum and manual for various sectors and levels
- o Harnessing the barangay for IHL education in communities, and the media to reach out to the general public
- o Research for development of appropriate IHL materials
- o Convening a technical working group that will be responsible for thematic area of work

2. IHL MONITORING, INVESTIGATION AND PROSECUTION

Although mainly reactive, this work area is partly preventative, since the swift and successful prosecution of IHL cases overcomes the curse of impunity. The biggest challenge in this work area is exactly that—to prepare for and successfully conclude the actual prosecution of selected break through cases. Unfortunately, handling RA 9851 related cases is a relatively complicated and unfamiliar ground for those charged with their prosecution. It requires additional study, preparation of appropriate manuals, launching of special trainings, and actual test cases.

Points and Recommendations:

- o Designate IHL/HR courts, train special prosecutors, and file cases in areas where there are large numbers of skirmishes and violations of rights of civilians or non-combatants (Regions 2, 5, 8 and Mindanao).

- o Creation of a mechanism for setting up a centralized data base, the compilation of portfolios on well known IHL violators, and the build up and monitoring of cases to ensure that these proceed within an acceptable time frame and perpetrators are actually brought to justice.
- o Strengthening of the Department of Justice witness protection program and similar mechanisms.
- o Build up of identified IHL cases.

3. HUMANITARIAN INTERVENTION

Massive internal displacement is still the longest running, most pressing humanitarian problem due to armed conflict in the country. In addition, natural disasters such as massive floods have compounded the need for humanitarian intervention and underlined the necessity to develop and use our resources wisely to deal with two situations that each requires specific responses. It is also important to point to the relationship between armed conflict and social justice issues such as the unrecognized claim of tribal peoples to their ancestral domain. Addressing these issues is necessary in pursuing an end to the conflict itself, and consequently, to internal displacement.

Points and Suggestions Raised:

- o Develop structures that will facilitate and coordinate humanitarian intervention in conflict and disaster areas and encourage complementation of humanitarian efforts.
- o Build the capacity of LGUS to provide basic services, protection and other forms of assistance to the people in armed conflict and disaster areas

- o Explore ways to sustain and intensify livelihood and health-related efforts in such areas (with DOLE, DSWD, DOH other government and non-government groups)
- o Explore ways to ensure that all armed groups respect efforts at humanitarian intervention during natural and manmade disasters.
- o Improve the capacity of the AFP to deal with post traumatic stress among service women and men.
- o Review the anti-torture law on the inclusion of NSAs to discourage impunity

E. Post-Summit Roundtable Discussions on an Operational Plan

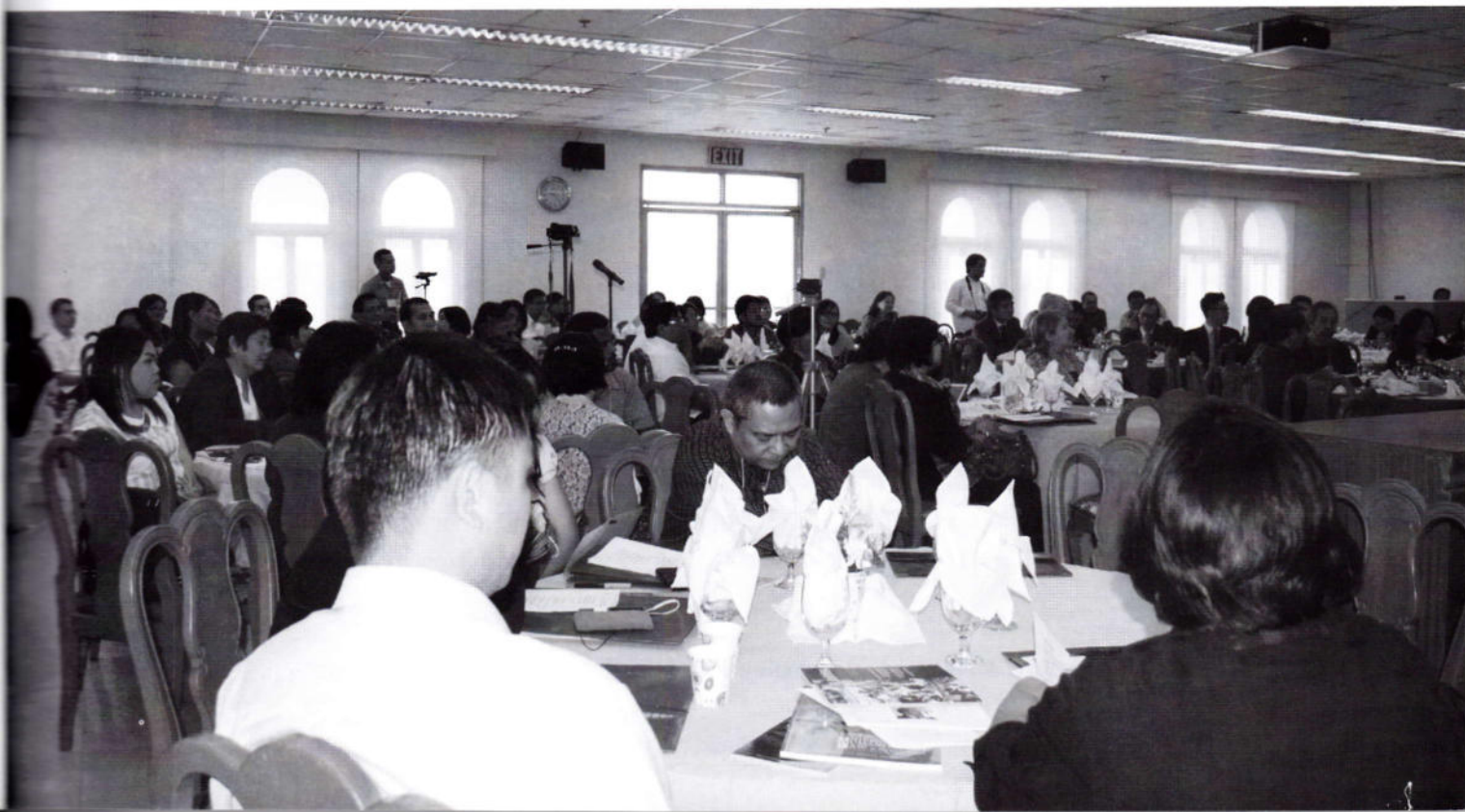
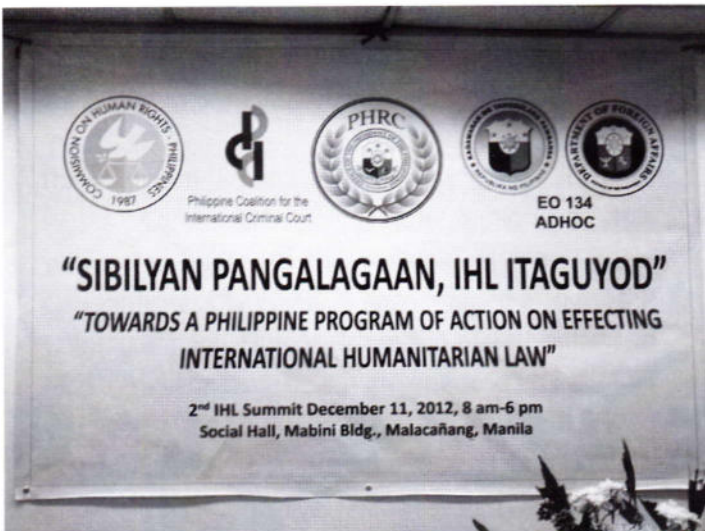
Two post summit roundtable discussions would proceed to further flesh out the recommendations coming from the Summit. The 20 March 2013 RTD came out with an operational plan and the commitment of the Summit organizers—the Commission on Human Rights, the Presidential Human Rights Committee and the Philippine Coalition for the International Criminal Court—to form a technical working group with other stakeholders, including the Civil Society Initiatives for International Humanitarian Law, to oversee the implementation of the operational plan.

Another RTD on 6-7 June 2013 gathered the directors of the Commission on Human Rights to further localize the Operational Plan.

The Summit identified issues and recommendations and resulting Operational Plan represents the Summit's unity on a national agenda for international humanitarian law for 2013-2014.



OPENING PROGRAM



OPENING PRAYERS



NATIONAL ANTHEM



WELCOME REMARKS

Brigadier General Teofilo Pilando

Deputy Executive Secretary

On behalf of Executive Secretary and Chairperson of the Presidential Human Rights Committee Paquito Ochoa Jr., I welcome you to the Second National Summit on International Humanitarian Law. I wish to congratulate the government and non-government agencies that have partnered with the Presidential Human Rights Committee in organizing this summit—the Commission on Human Rights, the Philippine Coalition for the International Criminal Court, and the Executive Order No. 134 Ad Hoc Committee on IHL led by the Department of National Defense.

The National Summit is the Presidential Human Rights Committee's major contribution to this year's observance of the National Human Rights Consciousness Week, spearheaded by the Commission on Human Rights. We are honored to host this event because it highlights and places great value on strong and productive discourse between government and human rights defenders to identify and collectively resolve critical issues. Moreover it situates human rights and international humanitarian law within the same breath as the promotion and protection of our people's overall welfare and well-being, especially in situations of armed conflict.

Developments that manifest our country's adherence to international humanitarian law have been noted since the First National Summit which was held in August, 2009. Four months after that event we had Republic Act 9851 in place, which defines and penalizes war crimes, crimes against humanity and genocide. Under the administration of President Aquino, we leaped forward in our IHL advocacy, with our ratification of the Rome Statute on International Criminal Law in August, 2011 and its enforcement in November of the same



year. Our accession to the Rome Statute further boosted an earlier adoption in March 2010 by the Philippine government of the Philippine National Action Plan in relation to the UN Security Council Resolutions 1325 and 1820 on the protection of women's rights in situations of armed conflict.

Not to be outdone, the Armed Forces of the Philippine issued its 2011-2016 Internal Peace and Security Plan Bayanihan, that underscores zero tolerance for human rights and IHL violations as its guiding principle. Finally in the arena of peace process, we have that milestone in the negotiations between the Philippine government and the Moro Islamic Liberation Front, the Framework Agreement on the Bangsamoro (FAB) which was signed on August 16 this year. Last November 8, we witnessed the signing of the terms of reference that rendered operational, the Philippine government's complaints monitoring working group under the Philippine government monitoring committee that will further enhance compliance with the comprehensive agreement on respect for human rights and international humanitarian law between the Philippine government and the National Democratic Front. Moreover, almost 3 weeks ago on November 22, President Aquino ordered the creation of special teams to investigate human rights abuses by state and non-state forces and to ensure a focused probe and speedy resolution of all unsolved and new cases under Administrative Order No. 9365.

The newly formed inter-agency committee will exclusively handle cases of extrajudicial killings and forced disappearances, torture and other grave violations of the rights to life, liberty and security of persons. Significant as they are, these developments should encourage us, government and NGOs and CSOs together, to revisit the other commitments we made at the first IHL summit some three years ago. These are commitments that deeply relate to our institutional mandates as government instrumentalities, as an independent national human

rights institution, as civil society and as parties to the armed conflicts in the land. In the end, these commitments and the challenges that come with them will be our measure of readiness to craft a National Agenda on International Humanitarian Law that will fuse and further our efforts and that I believe will mark the success of this activity. Again, on behalf of Executive Secretary Ochoa, Chairperson of the Presidential Human Rights Committee, I welcome you to Malacañang and to the Second National Summit on International Humanitarian Law.

OPENING REMARKS

Loretta Ann P. Rosales

Chairperson

Commission on Human Rights (CHR)

This year's theme, Towards the Philippine Program of Action on Effecting International Humanitarian Law, stems from the recommendations of the first summit's participants back in 2009, that stressed the need to institutionalize IHL in the Philippines. It's a fitting theme for the achievements we have attained so far. Foremost of these is, of course, the enactment of Republic Act

No. 9851, also known as the Act on Crimes against International Humanitarian Law, Genocide and other Crimes against Humanity, on 11 December 2009. It's the centerpiece legislation showing the Philippine's adherence to the principles of IHL. Our commitment was further bolstered through our accession to the Rome Statute which was mentioned already by Usec Pilando, thus becoming the 117th member of the Rome Statute System. It's quite noteworthy too that the related domestic legislation of an act penalizing torture and other cruel, inhuman and degrading treatment or punishment, Republic Act No. 9745, was also enacted on 10 November 2009.



We must also highlight as mentioned by Usec Pilando, the historic Bangsamoro Framework Agreement signed last October 15, 2012, that will serve as a strong foundation to achieve lasting peace and prosperity in Mindanao. The Commission on Human Rights, for its part, has worked tirelessly since the last summit to bring to life the recommendations raised by the summit participants, sometimes not very efficiently, but we always try to think that we did our best. The commission has been working on its responsibilities under Republic Act No. 9851 through the conduct of the very first training targeting lawyers and investigators to equip them with specialized knowledge in investigating and prosecuting crimes punishable under the said law. At that juncture, a hand book (a final draft that probably can stand some more improvement) for investigators and lawyers on violations of human rights, war crimes, crimes against humanity and genocide was also realized. This was upon the initiative of the Commission on Human Rights in consultation with a number of experts.

Now late last month, a roundtable discussion was also conducted on the implementation actions under Republic Act No. 9851 of various government stakeholders. The activity was an enlightening experience as it pointed out institutional successes and shortcomings in implementing the law. The Commission has also been exploring possible collaborations with institutions such as the UP Institute for International Legal Studies, wherein the CHR was invited as a resource office for the institute's efforts to harmonize Republic Act No. 9851 with the Rome Statute through legislative amendments.

It's not easy. We are also in talks with the Philippine Judicial Academy to come up with an agreement to assist the institution in training judges serving in courts having jurisdiction over offences defined by Republic Act No. 9851. I am certain that these efforts are but few of the many pursued by our organization to inculcate IHL in armed conflict and in prosecuting grave crimes under international law. Please be assured that CHR's continued support for the endeavors that will give life to a National IHL Action Plan will be steadfast.

I've always thought to myself that we do have a number of cases that have been completed already. We will be

submitting them to the DOJ or to the courts and so on and so forth. And because there was this lack of consciousness of IHL principles and laws, a lot of these cases can actually be studied and scrutinized, so as to bring out some of the lessons that we can learn. We just finished the investigation of the Leonard Co case and we have actually sent it to the various stakeholders. We hope to give some cases also to the diplomatic community, if they're interested, and of course to the media. In that case alone, we feel that there are a number of issues touching IHL questions that should be scrutinized. There are other cases but I think that maybe a collaboration where Administrative Order No. 35 can probably help, where we can collaborate with each other. I will only suggest and may I offer that while AO No. 35 is a very encouraging initiative on the part of the Executive Department, perhaps an IRR to rationalize the relationships between and among the members of the Executive Department, the Commission on Human Rights and the Ombudsman would be very helpful. We are encouraged by the idea that you will go into the review of unresolved cases of the past and make a good inventory of all the unresolved cases of the past administration and the current administration.

However, I feel that we have to clarify relationships when it comes to the constitutional mandate which belongs to the CHR with respect to the investigation of new cases of human rights violations. Other than that I think that maybe a lot of collaboration can really take place because it is my pride to announce to each and everyone, no matter how difficult it is, that the Armed Forces of the Philippines and their Service Commands, Army, Air Force, Navy and the Philippine National Police and the BJMP and the National Police Commission have come together with the Commission on Human Rights about our convening and have actually come out with the declaration, with a plan of action, where we are breaking down complaints, human rights violations that are allegedly committed by the police, against the military and both the military and the police and the BJMP are now verifying and validating each and everyone of these accusations that have come to the regional offices of the CHR. So, there's a lot of serious business. As we say, the devil is in the details, and until such time that we really sit down now, and look in each and everyone of these accusations, we are not going anywhere.



SOLIDARITY MESSAGE





MESSAGE

Atty. Evecar Cruz Ferrer

International Committee of the Red Cross

ICRC has been working in areas of armed conflict around the world to help alleviate the sufferings of those affected by war. In the Philippines, the ICRC has been present for more than 50 years and has been supporting various efforts to integrate and implement IHL in the country. ICRC has been working with the Armed Forces of the Philippines, the Philippine National Police, the Department of Justice, the Supreme Court, the Commission on Human Rights, the Philippine Judicial Academy and other government agencies to promote and implement IHL on the ground.

We do this through trainings foreign and local, and through dialogues and actual interaction with those affected. In terms of trainings, for example in 2012, following what Chairperson Rosales mentioned earlier, we actually supported the trainings of prosecutors

as well as judges on IHL and RA 9851 because we noticed that even though RA 9851 has been enacted for some time, no case to date has been filed in court. We were thinking that maybe it's because of the lack of information or failure to properly promote the law. We support those directly affected by armed conflict and disasters by providing food and non-food items and livelihood support in the hopes that those affected can start rebuilding their lives.

For the recent and unfortunate disaster in Mindanao, Typhoon Pablo, we have already provided food and non-food items. We've sent 18 trucks which are in Mindanao already and we are mobilizing our stocks in Kuala Lumpur to be dispatched to the Philippines as soon as possible. ICRC has likewise, since 2007 been supporting the IHL day celebration in the hope that we can promote IHL properly in the country and this will entail assisting other government agencies in their own IHL programs. ICRC again expresses its gratitude for being invited this morning for this important activity and rest assured that we will continually support efforts in promoting IHL and implementing the same in the Philippines.





SUMMIT BACKGROUND





SUMMIT BACKGROUND

Atty. Byron Bocar

Commission on Human Rights

This is the Second National IHL Summit as we all know, after the First National IHL Summit which was held in 2009. As we heard from previous speakers, there have been a lot of major developments in this field. Still, a lot of things need to be done. Among them, already mentioned, was our accession of the Rome Statute which integrated us into the International Criminal Justice System of the International Criminal Court. There was also the previous approval of the Republic Act No. 9851 which defines and penalizes violations of war crimes, war against humanity and genocide patterned after the provisions of the Rome Statute.

There have been initiatives by institutions like the Commission on Human Rights as previously stated by Chairperson Etta Rosales, regarding the performance of obligations mentioned in the law. But as emphasized, there are still a lot of things to be done in the field, practical areas including training of investigators from institutions like the Commission on Human Rights, the Philippine National Police and other law

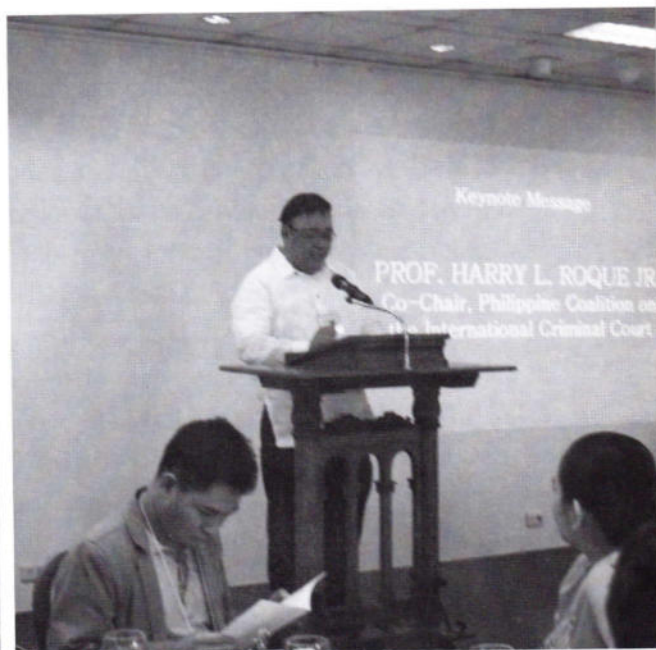
enforcement agencies, the training of prosecutors from the Department of Justice, the training of judges who will be designated to preside over special courts that would be designated by the Supreme Court in accordance with Section 18 of RA No. 9851, and also public awareness raising among the human rights community who will be stakeholders with other agencies to do their part in the implementation of the law. And, of course the general objective of this summit is to come up with a Philippine Program of Action which will be a multi-stakeholder endeavor that we will all undertake in the coming period.

To be able to consolidate all the different things that need to be done as a follow through from this Second National IHL Summit, and to put it all together in a National Program of Action, will be our fundamental point of reference in undertaking our activities in the coming period. I would like to mention that a recommendation of the Universal Periodic Review was the Kampala Amendment on the crime of aggression. The Kampala Amendments to the Rome Statute establishing the International Criminal Court and this was noted for study by the government and this specific point should be noted down as we buckle down to work today, to see to it that this is integrated in the Philippine Program of Action, that will be the output of a process to be started after we conclude today's activities.





KEYNOTE MESSAGE







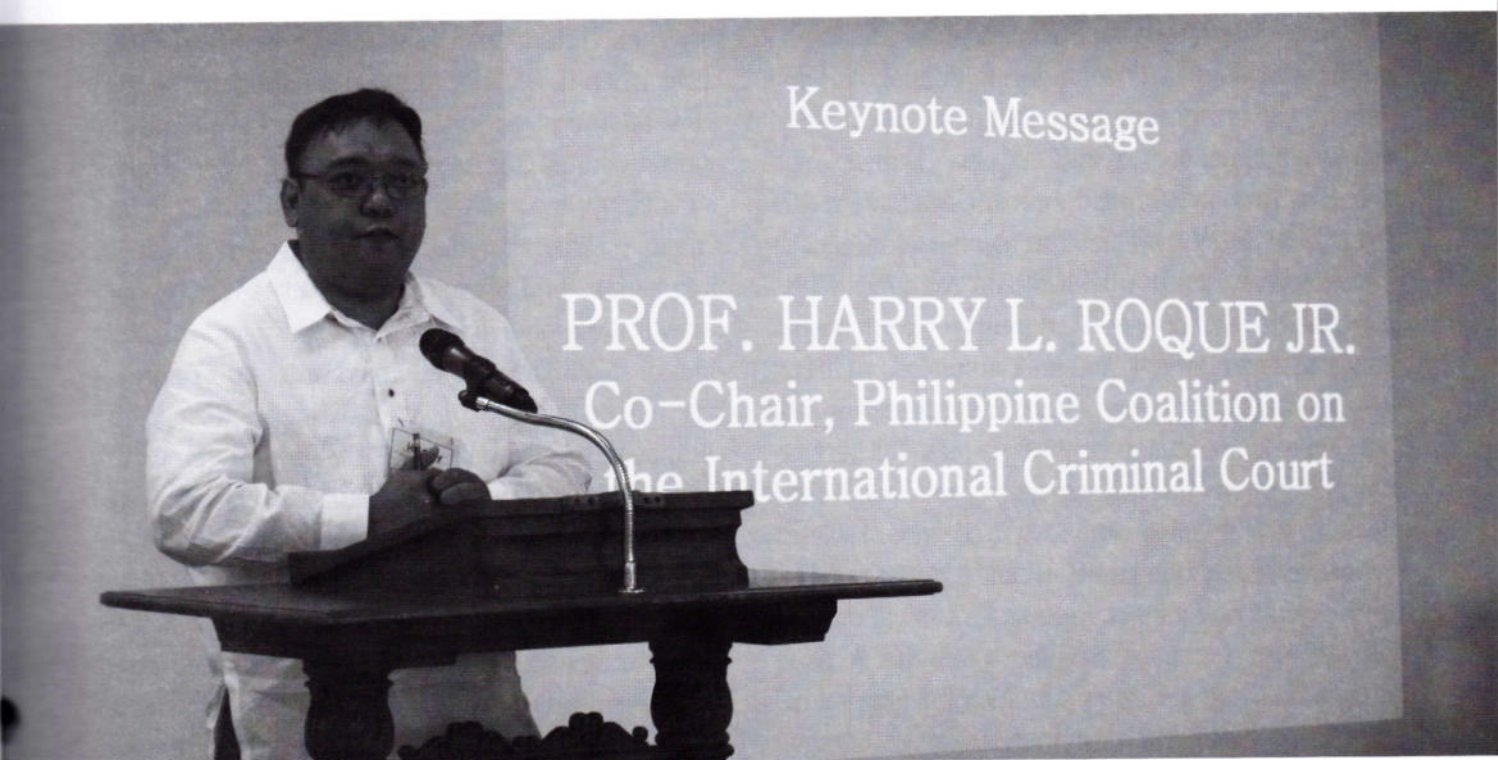
KEYNOTE MESSAGE

Prof. Harry L. Roque, Jr.
Co-Chair, PCICC

I stand before you today awed at the task of delivering this keynote address in the Second National Summit on International Humanitarian Law. I'm awed for a variety of reasons but primarily because, not too long ago, civil society to which I belong, was in fact excluded in the task of disseminating and ensuring compliance with state obligations under IHL. We do not know exactly why the past GMA administration opted to expel members of the civil society from the National IHL Committee. Perhaps it was because of our constant reminders to our government to comply with its state obligations on IHL and Human Rights Law such as, but not limited to the ban on recruitment of children as combatants, the ban on the proliferation of small firearms, and the need to prosecute all those who will commit serious violations of IHL, be it coming from the ranks of AFP, MILF or the NPA. Perhaps it was simply a lack of resources. Perhaps it was also because they thought, although, mistakenly, that because the IHL is a treaty obligation, only the state, the ICRC and the PNRC should be involved in the workings of the National IHL Committee.

Whatever the real reasons may have been, we are certain that the administration that banned us was the same administration that showered adulation on a war criminal, the butcher Jovito Palparan, who today has gone into voluntary disappearance, and become a fugitive from the law. What we also know with certainty is that the same administration that banned us is the same administration that was condemned by UN Special Rapporteur Philip Alston, for its gross breaches of human rights law. Specifically, and I'm sure you will remember this, Prof. Alston, who was referred to by then Secretary of Justice Raul Gonzales as a mere muchacho of the United Nations, confirmed that there were extralegal killings (even if he was not sure how many victims) and was our evidence that the Philippines was in breach of its obligations to protect and promote the right to life. I therefore stand before you as a member of civil society triumphant, that under this new administration we have again been recognized as a genuine partner of government in the implementation of our own state obligations under IHL.

I'm awed as to how much we have accomplished in such a short time. Not too long ago, because we failed to ratify the Rome Statute of ICC, we proposed to the Supreme Court that we adopt a conflict rule, that the RTC that first exercised jurisdiction in the prosecution of a war crime should do so to the exclusion of others.



We knew this was a far shot, but we had in our favor a new provision in the 1987 constitution that provided that the court may exercise its rule making powers in the promotion of constitutional and human rights. We argued that because our jurisprudence in the Philippines since the time of Yamashita and Kuroda has recognized that IHL is binding in our jurisdiction despite the fact that during those times we were neither a party to the Geneva or Hague conventions and neither did we have the IHL law, that it was still binding because of our incorporation clause, or the phrase in our constitution which provides that we recognize the generally accepted principles of international law automatically as a part of the laws of the land.

As predicted, the court rejected our proposal. It was rejected purportedly on the ground that legislation was required to confer in our courts the jurisdiction to try individuals for war crimes. Until today, I maintain the contrary to be true. Otherwise, the heirs of Kuroda and Yamashita should be paid compensation by the state because both of them argued at that time that the law was necessary for their conviction. Fortunately, it did not take too long before we had this IHL Law.

In 2009, as a result of tireless efforts of individuals who are no longer with us to celebrate the Second National IHL Summit, and I refer specifically to the late Justice Leonor Ines Luciano who was chair of IHL Committee of PNRC as well as Chairperson Purificacion Quisumbing who created the first IHL desk in the Commission on Human Rights and of course Senator Gordon who sponsored the measure in Congress together with tireless individuals of the government, academe, ICRC and the civil society. We have, as mentioned by earlier speakers today, as our IHL law, RA No. 9851. This law codified the applicability not only of war crimes, crimes against humanity and genocide, it also codified the applicability of exercise of universal jurisdiction for the criminal prosecution of these crimes. The fact is that prosecutions are not subject to prescription and the defense of sovereign immunity, a defense of sitting presidents, may no longer be invoked as a defense for the prosecution of these crimes.

The good news for IHL continues. After the enactment of the law, Pres. Noyon Aquino did what we thought

would take two life times to realize. He sent the Rome Statute of the ICC to the Senate for concurrence, paving the way for our membership to the International Criminal Court. It is this act, perhaps, which stands as the ultimate testament to this administration's resolve to end impunity in this country. For when our domestic legal systems fail or are unwilling to prosecute perpetrators of the most serious breaches of international law, we have obligated ourselves to allow the ICC to exercise its competence instead. A membership to the ICC without a doubt is signal, to one and all, that the Philippines will not allow impunity to persist.

The list of accomplishments of the Aquino administration continues. What has not been mentioned by the earlier speakers is that we have also become a party to the 1997 First Additional Protocol to the Geneva Convention and the Optional Protocol to the Convention against Torture. Under the Additional Protocol to the Geneva Convention, the Philippines now ranks among the countries that have undertaken to insulate civilian populations from the adverse consequences of armed conflicts.

A ratification of the Optional Protocol on Torture Convention in turn, had the effect of our country recognizing the jurisdiction of the Committee against Torture, the monitoring body of the Convention against Torture. This will now enable our nationals to submit individual communications to the said body when they feel that their rights under the convention against torture are not being promoted and prosecuted by our government.

Finally, in recognition that enforced disappearance is the ultimate form of torture to its victims who do not know if they should weep for the loss of their loved ones or still hope that they would be found, Congress has passed its final version of the Anti-enforced Disappearance Law. For the first time it provides for the elements and the penalty of the crime of desaparecidos. This promises to be the first law of its kind in the whole of Asia. Here, I am confident that the President will either sign this bill into law or will allow it to lapse into one. Every single bone in my body tells me that he will not veto it. Indeed, what we have learned, is that it takes an administration

with a genuine and overwhelming mandate from the people, not just from Garci, that can usher in these tremendous achievements that collectively strengthen the normative character of International Humanitarian Law in a domestic legal system.

But despite all these accomplishments, I stand today before you also in awe with the tremendous tasks and challenges ahead of us. While the passage of the IHL Law, and the ratification of the Rome Statute of ICC as well as the ratification of the First Additional Protocol to the Geneva Convention have bound us further to uphold the non-derogable principles of IHL and International Criminal Law, in truth and in fact our burden to discharge our obligations under the principle that the state must investigate and punish those who commit international crimes, can only be discharged if our domestic legal system is able to investigate, prosecute and punish those who commit war crimes and crimes against humanity.

Already, we have experience with prosecutions of just ordinary murder cases, such as the Ampatuan massacre case, the Doc Jerry Ortega case, the Binayog torture case and the unresolved torture and enforced disappearance of Jonas Burgos, the three Islamic scholars who disappeared ironically in what is supposed to be the premises of Terminal 3 of NAIA in January of this year. And even the disappearance of prominent lawyer Atty. Frank Joe Zulueta, who I understand is even a fraternity brother and classmate of Executive Secretary Jojo Ochoa, underscores the tremendous structural challenge facing our nation today. The Ampatuan Massacre prosecution highlights the failure of the state to accord victims of the gruesome massacre an effective remedy under domestic law which together with the duty to pay compensation are state obligations, where it has failed to protect and promote the right to life.

There can only be an effective remedy when the prosecution results in a conviction within a reasonable time. While reasonable time will vary from jurisdiction to jurisdiction there is now a looming consensus that in democratic systems with working legal systems, the average trial of the accused in a case as prominent as the Ampatuan case should not go on for as long as it already has today. And while our courts have

generally been the object of criticism in this regard, the reality is, in the instances of miscarriages of justice, all the pillars of the criminal justice system are to blame. And I'm sorry to say this, before everyone who represent different pillars of the criminal justice system but it will have to be said.

The police, sometimes, not all the time, fail to investigate and apprehend suspected perpetrators of these crimes, the prosecution for their failure to assist the police in investigating these crimes, the courts, notorious for delays and even the community for already accepting these delays and other miscarriages of justice as part of daily lives. And while we acknowledge the destruction of our criminal justice system was the handiwork of the past dispensation, the tasks of governance demand, that it is this administration that should now rebuild these damaged institutions.

Let us perhaps now improve the capacity of the Philippine National Police to utilize forensic evidence, rather than to rely on testimonial evidence in the prosecution of crimes covered by the IHL law. Testimonial evidence, after all in this country, is often very cheap to procure or is readily available through resorting to torture. Let us demand from the National Prosecution Service a better conviction rate for extralegal killings. The current rate is 1% and this is according to an Asia Foundation Study conducted by Atty. Al Pareno. Let us conduct a dialogue with the judiciary and discuss if we should instead adopt the European Inquisitorial system where it is the Judge that gathers the evidence in the resolution of a dispute, rather than the current American adversarial system that we have, with the Judge as a passive recipient of evidence adduced by the parties. Let us all consider the possibilities in order to hasten the administration of justice in this country, for in the end it is only through a working criminal justice system that we can truly discharge our treaty obligations under IHL.

Let us synchronize too our foreign policy with our treaty obligations. Recently the international community expressed its condemnation of the crime against humanity being perpetrated against the Syrian people by its own government. The dilemma in Syria is because legal resort to force can be had

only in cases of self defense or when authorized by the Security Council. Because sanctions against the Syrian government are opposed by at least two permanent members of the Security Council, the UN system had been powerless to address the humanitarian disaster taking place in Syria.

Amidst this disaster, we have opted to take a neutral stance even in condemning the disaster itself, purportedly to protect our OFWs in Syria. I submit that this is a terribly myopic view of what constitutes our national interest. To begin with, our failure to condemn the humanitarian disaster will not serve to act as armor to our OFWs who can still be hit, and be killed by bullets in Syria. It seems to me that the best protection of our nationals in Syria and many other troubled spots of the world, is precisely a full commitment to adhere with established rules and customs of warfare and our responsibility to protect obligations under the Vienna declaration on Human Rights.

Moreover, there is unfinished business that the Pnoy Administration must address. There is the unfinished business of the comfort women of Candaba, Pampanga, who in the twilight of their lives are still demanding justice for being victims of mass rape during World War II. While the Supreme Court in the now infamous case of Vinuya, still has to resolve a motion of reconsideration of its earlier ruling denying these women any remedy on the ground that we have signed the peace pact with Japan, and we have said that we are barred from claiming the reparations as the result of whatever the Japanese Armed Forces did to our country. I submit that it is high time for the Pnoy administration to consider the plight of these women. If the previous GMA administration refused to espouse the claims, I submit that the Pnoy administration should do so.

By espousing the claims not only will we uphold the absolute prohibitions on rapes during times of armed conflict, we would also be promoting the norm, that those who commit violations of IHL have the concomitant obligation to make reparation for their acts. Jovito Palparan, Joel Reyes, Ruben Ecleo must all be found, arrested, and prosecuted in court.

The legal system, after all, is only triggered by the arrest of suspected perpetrators of these crimes.

In the same light, it has taken more than three years for former ARMM Governor Zaldy Ampatuan to be arraigned for 58 counts of murder. He still hasn't been arraigned although the arraignment is actually scheduled tomorrow, despite the fact that he only has a statutory period of 90 days within which to challenge the existence of the probable cause against him. This should never be sanctioned again. Furthermore, there is also the unfinished businesses of the Albarca Massacre, the February 2010 mutilation of AFP soldiers based in Basilan and the killing of civilians in Tampacan. No amount of treaty ratification will be an effective substitute for the duty to investigate, prosecute and punish individuals who violate the law and customs of warfare be they members of MILF or the Armed Forces of the Philippines.

This is why the Geneva Conventions enjoy universal recognition because unlike human rights laws, even non-state actors are bound by this non-derogable state code of conduct applicable to all fighters and combatants. And if for political reasons, we are unable to prosecute them, by all means we should refer this matter for prosecution in the International Criminal Court. For unless we ensure that all those who breach IHL will be prosecuted and punished, the law may be honored more in its breach rather than in its compliance.

So, you see I have a very good reason to be in awe today. Yesterday, we were excluded, today, we're delivering the keynote address. I'm also awed by how much we have accomplished in such a short period of time, and awed as I said, by the many challenges posed by implementing the contents of treaties and existing laws that seek to uphold the binding nature of IHL. Perhaps the ultimate challenge which leaves me also in awe is how to make IHL what it is in many countries of the world, a purely academic field of study. This will only happen when we have achieved a just and lasting peace, when armed conflicts will remain but a mere part of our history and no longer part of our daily lives. As a Muslim brother will say, "Inshallah."

FIRST PLENARY SESSION





FIRST PLENARY SESSION

Revisiting the First National IHL Summit and Significant New Developments

Domestic Implementation of the Rome Statute

Atty. Celeste Mallari

Institute of International Legal Studies (IILS)

I work with the Institute of International Legal Studies which is one of the Institutes of the UP College of Law. Among the mandates of the institute is to study and conduct research on international issues that have political and legal implications in the Philippines, and one of the projects that was recognized by the Institute is the domestic implementation of the Rome Statute. My report this morning will be on our project in relation to the Rome Statute.

Our project created a technical experts group which consists of experts from the DOJ, DFA and international law experts including Prof. Harry Roque and two delegates from the drafting committee of the Rome Statute, Dean Raul Pangalangan and Dean Merlin Magallona. The Commission on Human Rights and PCICC are also in the team. The team recognized two issues that have to be addressed in the domestic implementation of the Rome Statute. First is to address the requirements of complementarity of the Rome Statute, which means the ICC will not investigate and prosecute unless the domestic court is genuinely unwilling and unable to do so. And the second issue that we have to address is cooperation with respect to requests for arrest, investigation and surrender and the confidentiality requirements, with respect to requests to the ICC.

Now with respect to the complementarity issues, the technical group recognized that there are certain issues in the IHL Act that we need to address. The first is, we need to amend the IHL act, RA 9851 in order to address complementarity because we realized that there are certain definitions of crimes under RA 9851 which do not strictly follow the definitions



of crimes under the Rome Statute. In order for complementarity to apply it must follow strictly the wording of the Rome Statute. Another issue is that, we also followed the Rome Statute definition of war crimes, and distinguishing strictly whether it is for international or non-international armed conflicts only, because in RA 9851, these were somehow merged for other sources of crime under war crimes. Since the group agreed to follow strictly the Rome Statute then we also likewise agreed to separate the non-international and international armed conflicts.

However, although we strictly follow the Rome Statute, the technical group also agreed to allow for expansions for as long as the definition under the Rome statute will not be compromised. An example of this is our definition of war crimes. One of the acts of war crimes which we allowed for an expansion is the act of subjecting persons who are in the power of an adverse party to physical mutilation or medical or scientific experiments of any kind, which are punishable under the Rome Statute. We allowed for inclusion of the removal of tissues or organs for transplantation which was included in the RA 9851 or the IHL Act. So we decided not to remove that since it will not change in any way the jurisdiction of Rome Statute for existing definitions. There are several definitions that we had to tweak, but we followed that principle all along, that we will not compromise the crimes defined in the Rome Statute but we can expand. That means the trial court which has Jurisdiction in the Philippines can have the jurisdiction on those crimes and on those expanded crimes as defined in the IHL Act.

On the aspect of cooperation, Article 88 of the Rome Statute states that we should ensure that there are procedures under national law for all the forms of cooperation under the Rome Statute which includes the request for surrender, arrest, request for investigation and gathering the evidence. The technical group is conducting right now an analysis of the existing cooperation provisions of different jurisdictions. We are now trying to tackle the issue of whether that cooperation agreement should be

in jurisdiction or in extra-judicial form, which means whether we would have to resort to Philippine courts or whether Philippine courts would not be necessary. That is still an issue for resolution by the group, hopefully this week. Lastly, we hope to finalize the amendatory bill which also embodied the cooperation provisions by the 1st quarter of next year. And this will be open for the scrutiny of the public and for any criticisms; we hope to have it finalized and reviewed by our peers.

The IHL Peace Process Focused on the Bangsamoro Framework Agreement

USec. Maria Cleofe “Gettie” Sandoval
Office of the Presidential Adviser
on the Peace Process (OPAPP)

My task this morning is to provide everyone a quick background and general explanation on the recently signed Framework Agreement on the Bangsamoro (FAB). This was signed on the 15th of October this year, after a series of exploratory negotiations that began in 1997. For this Administration this concluded the 18 meetings all held in Kuala Lumpur with Malaysia as the facilitator. The document contains a political settlement between two parties, the Government of the Republic of the Philippines or the GPH and the Moro Islamic Liberation Front.

The Framework Agreement on Bangsamoro, as a negotiated settlement, as a political settlement necessarily contains the agreed parameters and the conditions set forth by the two parties. It sets a road map, a guideline on how a transition from the current ARMM to a Bangsamoro will be made. Lastly, it creates a new political autonomous entity called the Bangsamoro which is intended to replace the autonomous region of Muslim Mindanao. The Bangsamoro Government as the framework contains will be ministerial in form. This means that there will be political parties elected, and political parties will choose their leaders who will seat in the Assembly. Of course the assembly will be under the supervision of the President of the Philippines.



The relationship of this Government with the Central Government and with the other local government units will be asymmetrical in nature. This means there will be a relationship between the Central Government and the Bangsamoro as contained in Article 10 of the Constitution as well as with other local governments units, municipalities, cities and barangays.

The agreement, likewise, identifies or defines the identity of the Bangsamoro, as well as the core territory that is proposed to be covered by the Bangsamoro. The identity as defined in the FAB refers to those who at the time of conquest and colonization were considered natives or original inhabitants in Mindanao and Sulu archipelago, and its adjacent islands, including Palawan, the descendants of these natives or original inhabitants whether mixed or full blood as well as their spouses and descendants.

The FAB also specifies that the freedom of choice of the indigenous peoples shall be respected. The core territory as the FAB states, will include the present coverage of the ARMM as well as the six municipalities in Lanao Del Norte as enumerated there, including the barangays in the following municipalities and the cities of Cotabato and Isabela. There is a provision as well on LGUs that by resolution or petition should decide for inclusion as required, consistent again under the constitution.

The FAB speaks of annexes that would complete the agreement. The framework covers general principles and general guidelines. There are four annexes being finished and developed; there are technical working groups coming both from the GPH and the MILF completing the negotiation on the Annexes. These four Annexes will cover power sharing, what will be reserved, what will be exclusive and concurrent, powers of both the Bangsamoro as well as the Central Government as well as the justice institutions, again as framed by the FAB.

The next annex will cover wealth sharing, on taxation, on funds and donations and revenues for natural resources. The Third Annex will cover what is called normalization, which will basically cover security arrangements for the police, the role of the AFP and how the AFP will transfer its law enforcement powers to the police, and how the commissioning of forces will happen. The FAB specifies a gradual decommissioning of forces, how rehabilitation, reconstruction and development in the communities will happen, and how transitional justice which relates to the legitimate grievances, the historical injustices and human rights violations will be addressed. There is also an annex on the transitional arrangement and modalities, this will specifically cover the period of 2013-2016 until the Bangsamoro Government is elected and until they take office and run the Bangsamoro Government.

The road map speaks of a creation from the time that the FAB was signed on October 15. The president will issue an executive order which will contain 15 names, 8 coming from MILF including the Chair, and 7 coming from the GPH who will comprise the transition commission. The Transition Commission is

tasked to come up with the Bangsamoro basic law that will be submitted to Congress, which will undergo the regular passage of law process. Thereafter there will be a plebiscite in the core territories and the territories as contained in the law, and there will be an election for the Bangsamoro Government in 2016.

What this means therefore is that the 2013 election for the ARMM will push through. The ARMM will exist until such time, until 2016 when the Bangsamoro Government takes over. For the meantime, between the time that the law is passed and the 2016 election, what will be established is a transition authority which will take care of transitioning from the current ARMM to the Bangsamoro Government.

Lastly, on rights, basically what the FAB states is that there will be a basic law. The basic law will spell out what will be contained in the annexes as well as what is contained in the framework agreement. It recognizes a collective, democratic right; it recognizes the right of people to say yes or no; that's why a plebiscite will be held. There will be no surprises, because the law will go through the congressional mill; it will be subjected to a plebiscite and there will be consultation with the people. People will be allowed to put in their comments as a regular law is made. And at the end of the day, once the law is passed, it will be subjected to yes or no for the people who will be affected by the law. That is what the collective democratic right covers. It will also guarantee basic rights of citizens.

The Section 6 of the FAB begins thus, in addition to other existing rights, and therefore it recognizes that the constitution already spells out rights but in addition to the rights already spelled out, the FAB as well enumerates other rights. It covers a whole range of rehabilitation and development of communities and this will involve a long and elaborate and well planned process of ensuring that the communities, the conflict affected areas or communities that will be covered by the Bangsamoro will experience development or will have a chance at development.

Lastly, there is normalization, a very important chapter on transitional justice, on how grievances and human right abuses will be addressed, on how both the

MILF and the Government will address issues that will involve transitional justice. At this point, and as a matter of fact, the team will leave this afternoon for Kuala Lumpur for hopefully the last session. According to the FAB the Annexes should be finished by the end of the year, because we're nearing the end of the year, we hope that they will finish all the annexes by the end of the year. They had one round in November

and so this is the second round of negotiations. Hopefully everything comes through. We also hope that in the soonest possible time, the President comes out with an executive order containing the Transition Commission which will convert all that is contained in the FAB and in the annexes into a basic law so that it can be ready for submission to Congress as soon as it convenes. That is the basic feature of FAB.

International Humanitarian Law in the Security Sector

Brig. General Domingo Tutaan Jr.
(AFP Human Rights Office)

I was tasked to talk about the impact of IHL on the security sector particularly on the Armed Forces of the Philippines. Allow me to give some insights on the matter. IHL, most especially the fundamental principles of distinction, proportionality and limitation has been an integral part of the Armed Forces of the Philippines in many aspects. To name a few, and major aspects, the education and training of the individual soldier. This is brought about by a long existing Memorandum Order 259 series of 1995, that prescribes the mandatory inclusion of HR and IHL modules and instructional packages in all courses of the AFP and makes the successful completion of these courses as a prerequisite for promotion, designation and reassignment.

Further on education and in training is a graduated curricular of HR IHL for the military. This was undertaken in 2 series; one was in 1995 as an off shoot of MO 259 wherein the sectors led by the CHR and the AFP came up with the first graduated curricula on HR and IHL education for the military. In 2011, as an off shoot of the First National IHL Summit, the second graduated curricula on its validation edition came out with this graduated curricula on HR and IHL for the military. This was undertaken by CHR and all AFP education and training units with the help and guidance of the International Committee on the Red Cross in coming out with this. I am saying it is the off shoot of the First National IHL Summit because this is the seal that was used during that summit and I would say that it was part of it and



an output of that summit that we had in 2009. This graduated curricula and program of instructions are now being revised.

This is part of the plan of action that was presented during the Second National Educators Congress for Human Rights Education in July of 2011 in Tagaytay, wherein the AFP looked into it as a matter of revising the program of instruction or commonly known in the educational field as the syllabus or curriculum simply because special laws have been added that were not included at the time when this was created. To name a few, these are Republic Act 9851 and Republic Act 9745 or the Anti-Torture Act of 2009. And more importantly the Rome Statute of the International Criminal Law Court which was ratified very recently and hence was not included in this curriculum.

In order to make this more comprehensive during the education and training of the individual soldier, we are now including this as part of the activity. Our military to military engagement with the newest

military forces, as far as the mutual defense board is concerned, we are also undertaking or getting assistance in terms of coming out with the program of instructions, most especially on the aspect of rules of engagement.

The second aspect why I'm saying that IHL is very much a part of Armed Forces of the Philippines is because of the Internal Peace and Security Plan Bayanihan which was issued on 21 December 2010, and effected on 1 January 2011. IPSP Bayanihan speaks well of its two approaches, and one directly related with IHL is the People Centered Approach, wherein the primacy of the human security framework is given and the strategic imperative therefore is for the respect and the promotion of human rights adherence to the International Humanitarian Law and for the soldiers to abide with the rule of law. Hence, in the rules of engagement for the IPSP Bayanihan which were subsequently issued in March of 2011, you can see the sequence. December 21 was the issuance of the IPSP Bayanihan and January was the implementation. March was the issuance of 2011, but months prior to that was the creation of Human Rights Offices in all units of AFP.

The sequence will show that there were undertakings that were able to address the issues and concerns as far the IHL is concerned. The rules of engagement specifically now speak of the combat rules in accordance with the International Humanitarian Law, the treatment of enemy and civilians and the actions on self-defense and the use of force against the enemy. This is within the framework of the International Rules of Engagement that was undertaken in Geneva and made part of the ROE of IPSP Bayanihan with all due consideration on the International Humanitarian Law.

On the third aspect, why the IHL is very much a part of the AFP, is the issuance of the command guidelines from the chief of staff, from the secretary of national defense and from our commander in chief himself on the operational thrust and guidelines. The AFP chief of staff issues on an annual basis the operational thrust and guidelines, the last of which were issued in January of this year, that would cover the operational thrust and guidelines for 2012 and on a semi-annual basis on the semester, these are updated. Soon to be

issued this year, probably by December 21, during the celebration of the 77th Anniversary of the AFP would be the operational thrust and guidelines of the AFP for calendar year 2013. It is overarching with our rules of engagement and primarily on what is to be undertaken by the ground soldier as we pursue our Internal Peace and Security Plan Bayanihan.

The fourth aspect on why IHL is part of the AFP is our continuing advocacy and information dissemination efforts. This time this concerns formed units. I talk about education and training for the individual soldier; what we are undertaking as far as our advocacy and information dissemination efforts are for formed units. The individual soldier trains in his career courses and when he is assigned back to his unit, it is our efforts on advocacy that trains the whole unit as far as IHL is concerned. We have this training for teaching or advocacy campaigns on HR based on the Universal Declaration of Human Rights, the IHL and also in consideration with RA 9851 and the rule of law which dates back from our revised penal code, certain provisions of revised penal code and long passed special laws promulgated and some of the rules of court or rules of criminal procedures that are lifted for purposes of making the soldier aware of what are and what are not to be undertaken.

For 2012, one of the pilot projects that we had as far as IHL is concerned was the non-formal education of CAFGU Active Auxiliaries. We had two series of these activities, one was done in Davao in partnership with the International Committee of the Red Cross and another one was in Nueva Ecija, in partnership with the GPH Monitoring Committee (GPHMC) for CARHRIHL. It is a very simple thing that we would like to impart to our CAFGUs. It's simply laying down 60-70 meta cards in one table with different situations that they face in day to day activities. And it's for the CAFGU to pick that meta card and put it in a wall that says, allowed or not allowed or in the vernacular "pwede or hindi pwede." And these CAFGUs are the ones who pick cards without any intervention from the training team. It is for them to pick it up and explain why he is going to put it in the allowed or in the not allowed sections. The reason why it is allowed or not allowed will be explained further after all the meta cards are completed.

We are now determining if we are successful in this. It is mainstream to the Cagug and we would like to evaluate this up to the end of the year and go back to the ICRC and GPHMC to hit other areas. We were tempted to have a projected activity of the same nature in Bicol or in Samar with our partners with Sulong CARHRIHL but because of certain activities or events we were not able to pursue it, and we look forward to having this, probably on the first or second quarter of 2013.

Another aspect is our publications. We borrowed two booklets from CSI IHL. These were probably prepared by our main speaker this morning Prof. Roque. This is the Primer on IHL which is placed in the Philippine context and Republic Act 9851, which is also based on what a soldier like me would experience on a day to day basis. The purpose is not to simply comply with provisions of RA 9851 or with IHL, but for me to know why I have to comply, why I am mandated to do it, because I am a state actor and I have state responsibility. What the non-state actor does in violation of this is not supposed to be a reason for me to violate the same, and that is what we are imparting to our soldiers. And because these other publications are our essentials for our commanders. This is to tell the commanders what are their responsibilities and what they have to undertake as far as the law of armed conflict or IHL is all about. This is more for the individual soldier, the code of conduct of the combatant. We had the help of the ICRC and the back part of it was the first aid. And this is more or less a water resistant booklet so that if you put it in your pocket, and you get rained over by the monsoon rains then it will not be destroyed that easily. There is a new 2012 version of this and we are still waiting for the 3000 copies that you're going to give us.

We also have appropriate forums where we impart what IHL is all about. We have senior leadership courses or senior leaders conferences, the council of sergeant majors, the major service command conferences, company commanders forum, battalion commanders forum and even in the symposia that the MNSA has, the masters in National Security Administration that is being undertaken in NDCP. I was an instructor for those civilians who are going to be part of the reservists of the Armed Forces after

their graduation from the MNSA. We have also undertaken a lot of efforts jointly with CSOs and NGOs in terms of IHL advocacy.

This is mainstreaming what we are able to do on a collective effort, with the common goal of having advocacy for IHL. Aside from that, we have a lot of undertakings, joint government offices and agencies GPHMC, PHRC, CHR on that matter. It is not simply because I get scared of Chairperson Rosales, but because we have to comply with this and we have made a commitment and that is what I'm scared about, that we may lose on this commitment that we are always giving, pronouncing and we are not be able to undertake what we are pronouncing. What we included in the package is a magazine from ICRC which is putting words into actions wherein we undertake what we are saying, or practice what we preach and preach what we are practicing.

We have taken another big leap with our other efforts in IHL. It was a little sidelined; this is integrating the law project. We had a project with ICRC which is a part of our instructional file. This is integrating the law in military operations. This started in 2009 and early this year we tried to enhance it by having a similar activity in Mindanao and in Visayas. We were able to undertake this and to make sure that the integration cycle of the International Humanitarian Law, what was being prescribed by IHL itself and ICRC. This is the cycle on doctrine, education, training and equipment and sanctions. We feel that it is important because the cycle in itself is the very essence of what IHL is able to do.

On a fun note as far as IHL is concerned is the celebration of the IHL month. Last August we had a fun run, the soldiers ran and we were on the stage having fun. But the point is, it is to make IHL something that can be viewed not as a constraint but something that is not hard for a soldier like me or soldiers like them to accept. It is very simple. If you look at IHL it is simply distinction, proportionality and limitation. If you talk about RA No. 9851 it's just Chapter 3, Section 4, Number 2, because that's the situation of non-international armed conflict and the succeeding paragraphs after that, A-L I think. It's not hard to understand so that a general like me or

probably a private or a second lieutenant or a major might will be able to comprehend it at the same level and at the same, exacting compliance as far as IHL is concerned. What we learned from the celebration of the National Human Rights Consciousness Week in December is the concert and we will probably have an IHL concert next year with EO No. 134.

But what is the greatest impact of IHL? First and foremost probably is the correlation of IHL to the comprehensive agreement for the respect of the human rights and IHL, a non-law type of agreement which was inked by the Government of the Philippines and the CPP-NPA in 1998, and with RA 9851 which was promulgated in 2009 and very recently, the ratification of the Rome Statute of the ICC. This correlation now makes everything understandable in a manner of speaking, as far as appreciation and understanding of the law and its compliance. There are still violations committed by the security sector. I will not be a hypocrite and claim there are none. There might still be and there are still reported or unreported but the effort right now is to bring these violations down.

I think, we are a little bit successful as far as the AFP is concerned to bring the number of incidents down. But nonetheless we say, if you go to the HR complex, you would see the tarpaulin there at the opening of their gate, "one life is one life too many" or as far as IHL is concerned "one case is one case too many." And our vision is really to have zero reports of IHL violations. And we join Prof. Roque in saying that

probably IHL would be a matter of history and a matter of academic discussion in the very very near future. Thus, what we are now trying to emphasize and seek from our partners in the civil society organizations, from the NGOs, from the international community, the diplomatic corps, the AFP and the PNP is to be able to join our hands together in ending impunity as far as IHL violations are concerned.

September 18, 2012. A pregnant wife and two children were killed in an incident in Tampakan in Davao del Sur. Two children were also killed. Perpetrators of this incident are members of the AFP. December 9, 2012. PFC Masuluan was fired upon by the NPA while he was riding a tricycle, going to get one sack of rice after his family became victims of Typhoon Pablo in Capalong, Davao Del Norte. He was not hit and fled from the tricycle. On board the tricycle were 2 children, his daughters 12 and 17 yrs old. They were abducted by the NPA. These two incidents are both violations of the International Humanitarian Law. They are violations of RA 9851, because the people involved are non-combatants, they are not direct participants in the hostilities or armed conflict. Hence, they must be protected by IHL, by RA 9851. It is in this light, we report to you our efforts as far as IHL is concerned and our common desire in joining all of you in making IHL a part of our everyday lives as soldiers, to end impunity and more importantly to exact upon both state and non-state actors their responsibilities and accountabilities as far as violations of IHL are concerned.





OPEN FORUM

Cristine Mundo

National Security Council

I'm a common lawyer and I find it difficult that when we amend a law it will take such a long time. I'm wondering, what parts of RA 9851 are difficult to implement, especially against non-state actors? Is it because we lack certain mechanisms to implement the law? Could the judges make certain remedies? I believe that you wanted to harmonize RA 9851 with the Rome Statute but we also lack our IHL, the education that we need here. Because we might need mechanisms, we might need judges who can just make the laws by making the first case, the jurisprudence on that.

Atty. Celeste Mallari

IILS

The substance of the crime that is enumerated in the IHL act or RA 9851 does not really deviate significantly from the Rome Statute. More or less they both have the same definitions but there are variations and the issue that we really wanted to address was for complementarity to apply. These acts must be found criminal, both under our domestic law and under the Rome Statute. With respect to the difficulty in amending it, the substance of the law itself, I think will not be difficult to amend. But I think the legwork for amendments might be an issue. With respect to implementation, that would be for General Tutaan.

Gen. Tutaan

AFP HRO

I think the first step in making a law, on how hard it is to implement the IHL or RA9851, is to open your blue folder. As you can see RA 9851 has 9 chapters, all we have to do is look in chapter 3. Chapter 3 is further divided into 3 aspects, war crimes, genocide and other crimes against humanity. From the context of the Philippine situation, what we would like to look at is only Section 4, paragraph b, in a case of non-international conflict which is present before us.

I think it is the very first step, looking at the law itself. That is what we are trying to do with our soldiers,

make sure that they are looking at it instead of googling what have you. But if you google RA 9851 you will see a portion. You don't even have to look at the whole of RA 9851, it's just Section 4, Paragraph b, Chapter 3. And all these things are there already as far as war crimes are concerned. What makes it hard now is the advocacy for it. So if we have a common stance as far as the applicability of IHL or RA 9851, on state and non-state actors, that would be the best.

It will be very fine with the AFP, with my office in the primary role to receive complaints of violations of RA 9851 to take exact responsibility for the actions of our soldiers. But it would be also fine if we will see all of us doing something about the violations of IHL and 9851 by state and non-state actors. So that the applicability of it will be truly on state and non-state actors. There are some sectors who project the AFP to be saying that we want this amended. No, the AFP doesn't want this to be amended, because it is IHL in itself and it exacts responsibility upon soldiers and the state and non-state actors.

CARHRIHL, although it's a non-binding, non-legal document, is an agreement. We mainstream this to the public by telling them that they are non-combatants, that if the non-state actors come before you to ask for revolutionary tax in the context of armed conflict, that is a violation of CARHRIHL, that is a violation of 9851 because they are non-combatants. If everybody will shout to the world that it is a violation, then maybe it is the best.

I remember during the IHL month, last August, the chairperson was interviewed and she mentioned what CHR has been doing. The chair mentioned 77 cases that they are looking into, in violation of IHL by the CPP-NPA-NDF. Why not join everybody in doing that too. At the same time do not stop accusing us if there are violations, because that is the only way we could stop it. So if you are talking about amendments, there are no amendments that we are looking forward to on RA 9851.

Atty. Mallari:

General Tutaan, you said Section 4B is for non-international armed conflict. The legal experts group,

after studying, said these fall under war crimes. Under the Rome statute of the war crimes, there are additional non-international armed conflicts under paragraph E. We are firm with our decision to amend it and to follow this definition. And there are more than 12 acts that will be added as non-international crimes. Although this might be difficult to amend, we have to take in consideration again the complementarity.

If we don't put this in our domestic law we might be in a situation where it will be the ICC to hold sole jurisdiction to prosecute, the trial courts might not have the jurisdiction, we might be caught in the situation so despite the difficulties of having this amended we really have to do it. We have to take note that IHL Act or RA 9851 was enacted prior to the ratification of the Rome Statute, thus the slight inconsistencies.

Tatiana Flores

CHR

We have prepared a hand book containing the crimes of Republic Act 9851, the crimes of the Rome Statute and the elements of the crimes. The main wall was to facilitate the work of the investigators and lawyers in identifying the violations of individuals in the International Humanitarian Law. I have always been proud of the Act and now more than ever, after doing this very meticulous study and finding out that there are three crimes that are not in the Rome Statute but are included in the Republic Act, and the broader protection, not making a difference between international and non-international armed conflicts.

I can say that this situation is similar to the one regarding civil-political rights vis-à-vis economic, social and cultural rights, that its artificial separation originated from that time, human rights from ideological historic moments. The same with IHL, there is no difference between the suffering of victims of international armed conflict and of non-international armed conflict. So when I went through the Act, and I found out that there is no difference, I was very happy. It is made on purpose.

The main objective was not to make a differentiation but to broaden the scope. What is the way that law

develops? The law develops because judges make an interpretation of the law not really in the applicability word by word of the law, because we will never have a growing law through jurisprudence, that was how sexually related crimes got into the Rome Statute. That's how all these NGOs fought to incorporate them. According to the Rome Statute Article 21, the judges can interpret further. So Article 21 can be a base for you not amending the crimes in the sense that we can allow the judges to broaden the scope if it's for a broader protection.

Ana Elzy Ofreneo

CHR Director, HR Education and Research Office

Congratulations to USEC Sandoval for the agreement that was reached. This to me is an agreement to agree on precisely the points that you mentioned. Is there any way by which certain points for agreement along IHL, along human rights be added? Is there any way they can be added to that framework agreement?

For Gen. Tutaan, I am very happy that you mentioned our conduct of the Second National Educators Congress on Human Rights Education attended by about 600 persons in Tagaytay last year. But I would like to raise a question, from that point of time, has the Education and Training office of the AFP been mobilized to undertake the action plans that were generated from the Human Rights Educators Congress? It is not only Memorandum Order No. 259 Series of 1995 that makes human rights education mandatory in our security forces. Even right there in our constitution in Article 14, Sec. 3, it states that all educational institutions and that includes military educational institutions, police educational institutions should include human rights teachings and foster respect for human rights and duties of citizens. I guess no further interpretation is needed and that is executory.

But every president has his or her own version of a directive making human rights education mandatory among the pillars of justice. All of these require mandatory human rights education. I was hoping that I will hear a report on the degree of compliance of the AFP along these many mandates, not to mention

international mandates on human rights education. We now have the UN Declaration on Human Rights Education and Training and every core treaty of Human Rights has a specific mandate on mandatory human right education along the very content of the treaty. And all of these have to be reported, on how well we have complied with these provisions.

For Atty. Mallari, can we equate complementary to exhaustion of domestic remedies?

Usec Sandoval:

Even as the framework agreement and the negotiations are ongoing, there are mechanisms already established to make sure that the civilian community is protected in areas of armed conflict. There are cessation of hostility committees created and there are international monitoring teams that are represented by several countries to make sure that cessation of hostilities remain. These are formal institutions and formal mechanisms that are established by both parties. As a matter of fact within 2012 there was no encounter between Government and the MILF. One of the reasons is the presence of a ceasefire mechanism, therefore it is very important for the parties to make sure that the civilian population, the non-combatants especially, are protected, especially those who are in areas of armed conflict.

The framework agreement also speaks of, as I mentioned earlier, the establishment of a program on transitional justice. This is part of the normalization provision, the details of which will be spelled out in the annex on normalization. Transitional justice would include grievances for human rights abuses committed by both parties, against each other or against non-combatants. This will cover grievances by the community and therefore I think in that sense, the concern of HR violations committed by combatants and non-combatants as well as against the civilian population will be covered.

At the end of the day, because the basic law will be subjected to the congressional processes, consultations will be held and additional provisions can still be added. The basic law will be subjected to deliberation and therefore comments will be accepted in the usual way that we pass laws. Therefore, I think,

at this point if specific provisions are warranted on specific subject matters, I don't think that the table is completely closed on these particular issues. But let me point out that there are IHL and HR provisions already present in the framework agreement.

Gen. Tutaan:

The level of compliance is there but is not yet a complied thing. We have an Education and Training Board that is undertaking the revision as far as the POI is concerned. What we did is to fit it from pre-entry courses to senior military courses so that everything will be there. It's just a matter of allocating the number of periods and the most of instruction as far as the manner of educational training is concerned, as mandated, as you mentioned in the action plan of the AFP in the National Education Congress for Human Rights Education. We are going to be there, but again I will tell you, not to expect that it will come out in the very near future. But as we are doing this on the POI having a collateral effort, this is being undertaken by the Army Human Rights office, as far as doctrinalising this. We have an education and training board and we also have our doctrines board. And we hope that as we do this in education and training we are also able to have this in the doctrines board, both now connected in the integration process or integration cycle of the IHL as we see in IHL.

Atty. Mallari:

Under the Rome Statute, the ICC can have jurisdiction or acquired jurisdiction over the case if it is referred by the state party or by the Security Council of the United Nations, or if it is initiated by the prosecutor. One of the options is when it is referred by the state party, that means that the state party already gave its consent. Article 17 of the Rome Statute also provides that a case is inadmissible if the case is being investigated or prosecuted by the state which has jurisdiction over it, unless the state is unwilling or unable to genuinely carry out the investigation or prosecution. It's not really exhaustive, in the sense, that you have to maximize or to end the proceedings before the domestic court. If there is a finding that the performance of the domestic court is unsatisfactory or genuinely unable or unwilling, to quote Article 17, then the ICC can proceed.

Atty. Arroyo:

My question is simply on the operational or ground level because it strikes me that in some commands the emphasis is more on the CARHRIHL, which of course as the secretary and the head of MCI I also understand and appreciate, that's the document that forms our mandate. But at the same time I noted when I addressed this particular command there seems to be some apprehension among the officers that the application of RA 9851 has political implications regarding belligerency status and that sort of thing. And I feel that if we're all to be on board with respect to Republic Act 9851 that somehow this apprehension has to be laid to rest. How far are we along that respect? Because there's seems to be some degree of apprehension left among some of the officers.

Gen. Tutaan:

As far as applicability of RA 9851 vis-à-vis CARHRIHL it's really different in some areas. The reason being the amount of knowledge that they have and the kind of ownership so to speak, they have on that matter. If you go to Eastern Mindanao, they would rather have CARHRIHL, because it's a way to explain because insurgency is heavier than in Visayas. It's easier to say there that we will abide with this agreement, both the Government and the CPP-NPA.

So if you are a town folk or a villager or the tribal leader in the area, you can immediately tell, for example the NPA or the AFP if they become threats, that you've signed something on this, rather than using RA 9851 in itself. In other areas like in Central Mindanao, where the framework of agreement is now very effective, that there is no more conflict except RIDOS, and in Visayas, they can relate more on the RA 9851 because it is a law in itself that is undertaken.

But as far as the second question on the matter of belligerency status, I must admit that that's the wrong perception that the AFP had, that the status of belligerency might be affected. But no, and why? Because IHL itself states that it doesn't affect whether you acquire a belligerent or non-belligerent status and RA 9851 also speaks of the same thing. So it doesn't have a direct effect on the belligerent

status. But the greater thing about this is simply on a day to day or normal situation that occurs on the ground. I could relate to this because I was a ground commander before my designation as AFP Chief of the Human Rights Office.

Let's say that the cell site tower is being blown up because cell tower owners did not pay the extortion money. But what is the extortion money? It is the alleged revolutionary tax, done under the context of armed conflict. So that becomes an IHL problem. If you have both CARHRIHL and RA 9851, the people are the ones empowered against the threats. Maybe it is the AFP itself that is the threat in some areas but in greater areas it is the non-state armed groups. If empowered with both CARHRIHL and RA 9851 the community would benefit. Our duty is to make sure that the AFP is compliant to both agreement and the law itself.

Atty. Aroyo:

Since you're part of a working group, and you're analyzing the issues such as complementarity. I was wondering because I had the fortune to have some limited dialogue with the DOJ, on the implementation of 9851. I wanted to ask and hopefully this can be discussed in the parallel session, if operational difficulties of prosecution have come up in your discussion here in the Philippines.

Atty. Mallari:

We just commenced dealing with procedures, so now we were comparing with other countries, because other countries have already come out with their own cooperation provisions. That's what we're studying right now.

Antoine G.:

We are also part of the International Monitoring Team which looks at issues of rehabilitation and development and International Humanitarian Law and Human Rights. I've been here for the last few years actually, and as Prof. Roque was mentioning, a lot had happened definitely. On the legislative front a lot of laws have been passed. But what is usually the bottleneck or where the devil is, is in the implementation. In our programs, we really have to say that we have lots of extremely good cooperation

with the PNP and the Armed Forces which have been very collaborative in this program. But for sure these changes that need to happen can't happen overnight. And I was just wondering when it comes to International Humanitarian Law, do we have any baseline or sort of figures on the implementation, like just for instance the number of cases that have been prosecuted under the law. I think that would be definitely useful to look at how it was implemented to understand what needs to be done to ensure better implementation because obviously the point is not to have a great law, but for it to serve its purpose.

Second question for Gen. Tutaan, I would really be pleased to understand what your office is doing in terms of discipline, in terms of internal investigation when a violation occurs. I know that you are doing a lot of things but you haven't mentioned it so far. Of course there will be opportunities to do it and for that the team that I've been assigned for this afternoon's discussion is very well done, because it also looks not only at the issue of promotion of human rights and IHL but also obviously if any changes are to happen in the minds of the people that need to apply the law. We need to have the carrot but also the stick.

My third comment is what Prof. Roque mentioned about the importance of cooperation of the civil society, I think that there is something that is definitely happening here, now maybe more than before, and probably more in the Philippines rather than in anywhere else because of this very vibrant civil society that works for the issues here in the country. How do you envision or tell me what is currently the partnership with the civil society. How do you envision it, and in this respect I would like to refer more particularly to the AO 35, which created this investigative task force because as far as I can remember the armed forces are a part of it, there is a role for the Commission on Human Rights but there is no role for civil society.

As you might remember in the framework of the GPH program, one component is to establish a national monitoring mechanism. We will look on that further, but I think that there could be definitely a

link between this national monitoring mechanism that would bring the whole civil society and this new investigative body. We have recently signed a new framework agreement for the new justice program of the European Union with the Philippines, which will start in January so I'm just taking the advantage of announcing that. It will be implemented by the Department of Interior and Local Government but involving all the different stakeholders and it will also look at access to justice in the second component on the issue of criminal justice and of course the IHL.

Gen. Tutaan:

I would like to inform everybody that EP justice has been working very very closely with the PNP and the AFP. In fact we took off from one of the suggestions that EP just made, this is the establishment of the National Monitoring Mechanism that will look into cases of extra-legal killings and enforced disappearance and acts of torture. EO 35 which has been signed recently, is purely on the government side but we want to have tripartism in this effort. Simply because, if you ask organization A, it will give you this number of violations, Organization B will have a different number, Organization C will have a different number. And if some people who are very critical about it they just say, A says 10, B says 5, C says 6, total 21, but they are all the same more or less, what is projected is statistics, is numbers.

And I think that is one of the things that we have, an output of National HR Consciousness Week, as far as the efforts that we had last week, as far as our engagement with the CHR, because of the commitment that we are going to undertake to have this body look into it. Actually we have started it. Last June, the Chair very kindly gave us a copy of the 96 complaints, all sorts of complaints for us to look into. And last week we presented the results of our investigation in that matter. Not to say that this is what happened, but to be part of the collaboration of efforts.

And to answer your question, what do we want from others, is probably to get together to look into all these cases. From the time that it is reported, to the time of validation and verification, to the time the file is filed in court and the time there is prosecutory action, to

disposition as far as the legal system is concerned. To have all this on tripartism, Government on one side, CHR as the national human rights institution, an independent and constitutional body and the third leg is civil society. The tripartism of efforts will be a very helpful tool for us to really address issues that concern HR and IHL themselves.

Prof Roque:

I would like to react to the question of our friend Antoine. Well, I've been following up the implementation of RA 9851, and I'm sad to say by way of baseline figure, it is zero cases filed. And that is why I am actually appealing to the AFP as well as the civil society. We do have cases that we can file already under RA 9851, the Basilan killing of our soldiers which I mentioned in my address should be a subject of criminal complaint, because that's actually inhumane acts committed by combatants against the MILF.

I'd like to address this concern to the Undersecretary of the Peace Process, perhaps the peace talk should

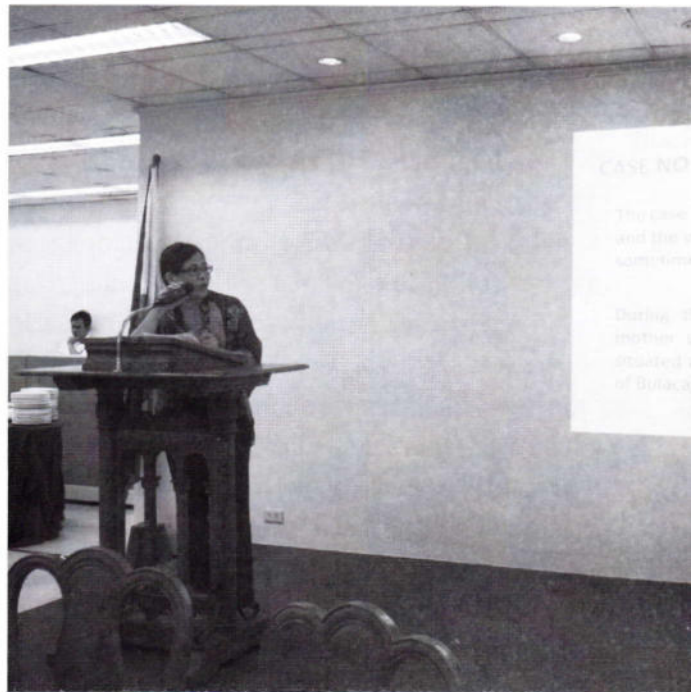
not be a hindrance for the prosecution of the MILF for crimes that are covered by RA 9851. In the same way, I am asking civil society and I'm hoping Task Force Detainees is here and that it should file criminal cases also for the Tampakan incident. It's not enough that we have court martial proceedings, the jurisprudence is very clear, court martial in this regard is only administrative but there should be a separate criminal case filed under RA 9851.

Earlier I talked also about the different pillars of criminal justice system, even the court is also remiss in this regard because 9851 mandates that the court actually designates special courts to try these cases. And until now the court has not designated these courts. So I'm addressing this particular concern to my colleagues at the Supreme Court although we in the Philippine Judicial Academy perhaps could bring this matter up to the attention of the Court en banc that this is something that they need to comply with. Unfortunately there is zero baseline figure so far.





SECOND PLENARY SESSION





SECOND PLENARY SESSION ON KEY IHL ISSUES

Internal Displacement

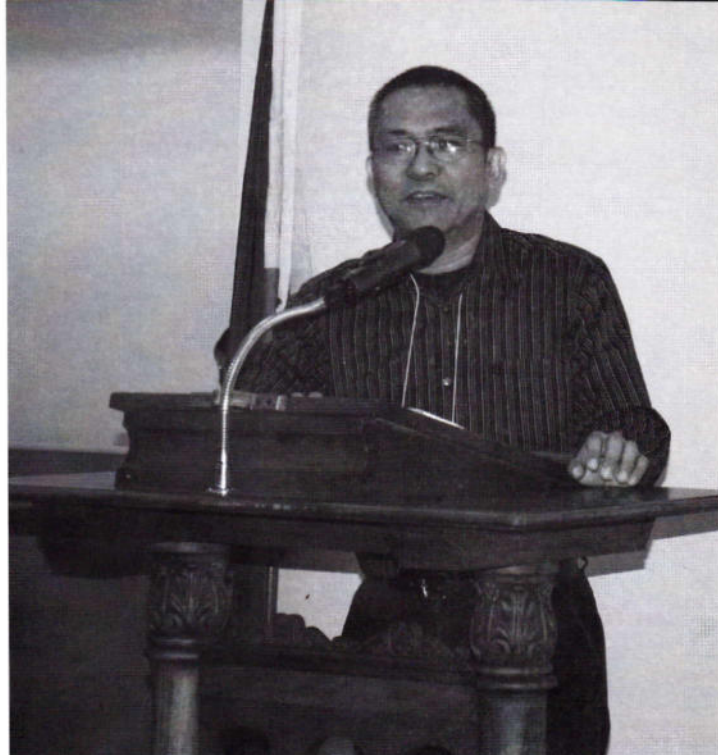
Ernesto Anasarias

Executive Director, Balay Rehabilitation

I am tasked to say something about the phenomenon of internal displacement in the Philippines. I will also try to introduce the current initiative towards the passage of the Internal Displacement Act which is the subject of interpolation this afternoon before the Senate.

To begin with, you know that displacement is one of the most palpable humanitarian issues in the country and in the other parts of the world. It is such a huge concern that in 2007, the Philippine Human Development Report came out with a study that due to internal displacement, around 1/3 of the Bangsamoro people in Mindanao are already in the state of diaspora, scattered all over the archipelago. Of course you have seen that phenomenon here in Manila, Baguio and some parts of the Visayas, and it still remains to be a very pressing concern up to this day. You will see data produced by the protection cluster, headed by the United Nations High Commissioner on Refugees wherein our organization Balay happens to be one of the members.

From January to September it listed some 263,213 individuals who have been displaced by various causes. And you can see at the map indicating the locations where IDPs came from. You can easily imagine that these places are not only vulnerable to conflict, but to natural disasters and poverty as well. In 2009 the International Displacement Monitoring Center named the Philippines as the fourth country in the world to produce the most numbers of displaced people. Of course this year the number has tapered down due to the historic signing of the framework agreement FAB but nonetheless it remains a huge concern in our country today.



There are several reasons why internal displacement continues to persist. One of these is definitely the protracted nature of our conflict and non-distinctive mode of warfare. I remember hearing over the radio this morning that the NPA has burned down a backhoe in one of the mining sites in Palawan. It's unclear to me what was the reason behind it, but I'm sure it's one of the examples that drive people to diaspora or seek refuge somewhere. This non-distinction between combatants and civilians is aggravated by the fact that civilians are being put into harm's way; they are used as human shields or recruited as spies by the military during military operations. It's giving us a picture of risk not only to lives and safety but some other freedoms of displaced persons as well.

In our country the IDPs have been better known as bakwets or evacuees, common names that are attributed to them. In some areas they are called internal refugees but since 1988 the idea and the label internal displaced persons have found their way to the vocabulary and lexicon of humanitarian agencies and government agencies and the security sectors as well, in an attempt to come up with a comprehensive description or category for these people who have been forced to move out of the place of their origin because of particular reasons.

So under the definition provided by the UN guiding principle on Internal Displacement, there are three

elements. One is the situation, the causality of the movement, and the definition that IDPs are those who are forced and obliged to leave their homes due to variety of reasons not only to avoid the effects of armed conflicts but also to get away from generalized violence, violations of human rights or natural or human made disasters. And thirdly they should not cross an internationally recognized state border, otherwise they will fall under the category of refugees under the 1951 refugee law.

Now, as I said the idea of IDP and its legal and political definition emanated from the United Nations Guiding Principle on Internal Displacement that was adopted by the UN in 1998. To date it is considered as the most comprehensive legal protection for IDPs that serve as a guideline on humanitarian protection and assistance. We know that this is not a binding international treaty, having the characteristic of a soft law because it is only a guiding principle and not a convention, but stands firmly on the very tenets and principle of IHL, human rights law and other recent conventions. This is comprehensive in a sense that it protects and provides principles and provisions for the protection of IDPs in all phases of displacement, prior to displacement, during the time that they are displaced, up to the point that they have to return, resettle or to reintegrate in places where they wish to stay permanently. It also covers a wide range of human rights provisions covering the civil-political aspect as well as economic, social and cultural aspects to give us the holistic coverage of human rights.

This is a soft law, but in the Philippines it is now nearing being a hard law in the sense that during the last 10 years, there's been an attempt to enact an Internal Displacement Act. And I see Chairperson Rosales now; she was in congress when one of the first versions of the bill was filed. Many people would ask, why an Internal Displacement Act? There have been many proponents of this bill and champions of this measure; we see that once enacted, this would serve as official recognition by the Philippine Government of the gravity of the problem. And second, it should be part of a paradigm shift that declares protection for IDPs or all civilians, all non-combatants for that matter. As a state policy, it also serves to coordinate government for humanitarian response encountered

at the risk of policy discontinuance in certain public officials.

One thing we find very innovative under the Internal Displacement Act is that it also recognizes the accountability and obligation of non-state actors under the International Humanitarian Law. I think this is a very good breakthrough in legislating Human Rights and IHL in a sense that from the traditional notion of human rights being the domain of state parties it now broadens into an acknowledgement that non-state actors may also be liable for human rights violations or violations of Humanitarian Law under domestic legislation.

There are two versions and several features of the Internal Displacement Act. One version is from the house and it was already approved early this year. The other version is now in the Senate, and we are hoping that it could be enacted soon before the Senate undergoes a recess. One of the salient features of the Senate Bill 3317 is that it provides a broadened definition in context of internal displacement. It does not only cover the displacement emanating from armed conflict situations but also intends to cover displacement due to development aggression and natural and human made disasters. This is perhaps one of the main distinctions between the versions of the House and the Senate. At the House, the context and the scope particularly focused on displacement due to armed conflict and HR violations and do not include displacement due to disasters.

The second important feature of the Senate Bill is that it identifies the rights of the IDPs in all phases of displacement, and also prohibits and penalizes acts of arbitrary displacement. Pertaining to natural disasters it refers to the Disaster Risk Management Law. It is an affirmative law in the sense that it does not only dwell on the punitive aspect but actually tries to reinforce mechanisms for protection and humanitarian response for civilians affected by disasters and conflict. One of its salient features includes the setting out of responsibilities of state agencies including those in the local levels and promoting the accountabilities of non-state armed groups, and the provisions of sanctions for violations and compensation for victims.

The Commission on Human Rights is being designated as the focal agency to investigate, document, provide some assistance and assist IDPs in their redress. Moreover it is expected to come up with a recommendation on how to strengthen civilian protection under that law. There's a second appropriation to the tune of 50 million pesos once the law is passed in the first year and in the succeeding year, the appropriation would have to come from the General Appropriations Act.

We have a saying that "the proof of the pudding is in the eating," and it is obvious that even Republic Act 9851 or other special laws protecting civilians in

conflict situations do not by themselves guarantee that the rights and welfare of the people be protected. Those who are pushing for this bill do not have any illusion that it will really end this phenomenon of internal displacement. Nonetheless we see this as a platform to promote awareness, and also to invite multi-stakeholder cooperation in order to slowly strengthen our national framework for protection. Of course everyone knows displacement is only a consequence of something that emanates from conditions of impoverishment, maldevelopment, poor governance and of course, the intractable war. The ultimate aim of all our cooperation is to move towards attainment of durable solutions.

Children in Situations of Armed Conflict

Brenda S. Vico

Executive Director,
Council for the Welfare of Children

The CWC is the highest government inter-agency group which is mandated to coordinate implementation and enforcement of all laws related to children's welfare. It formulates policies and programs for welfare and protection of children and, advocates for CRC implementation. I would like to emphasize that we are the lead advocate for the implementation and monitoring of the country's compliance with the Convention, through policies and innovative programs. The council also monitors and evaluates policies and measures and, more importantly, it builds strong networks, partnerships and coordination mechanisms.

The council was established by Presidential Decree 603, creating the Child and Youth Welfare Code in 1974. Through the years the council which used to be with the Office of the President has moved from one agency to another. We are now under the Department of Social Welfare and Development. The members of the council are nine government organizations (DOH, DOLE, DepEd, DOJ and all the other agencies which are working for children). The council also includes two private individuals and



two children representatives who really express their views on what the children want for themselves.

Our work is to advocate and promote the Convention on the Rights of the Child. The convention is part of the International Human Rights Law which defines the comprehensive sets of rights that all children must enjoy at all times. Article 1 states that a child is every human being below the age of 18.

Let me give you a brief comparison between IHL and CRC. They are almost the same except that IHL is only for war situations, while CRC is broader, and includes the rights of children both in peace and in situations of armed conflict. You have, in terms of the original sources, the Hague and Geneva conventions and all

that, and for CRC, the Universal Declaration of Human Rights and the Optional Protocols that add support to the IHL, particularly the rights of children in armed conflict. That is the link between CRC and IHL.

In terms of coverage IHL covers adults, whereas CRC covers only those below 18 years old. In terms of guiding principles, while you have the principle of distinction between civilians and combatants in IHL, for the CRC the principle is the best interest of the child, without discrimination, all children from different tribes, backgrounds and groups. It also proposes or subscribes to the principles of survival, development, protection and participation of the child.

In terms of purpose, IHL is for alleviation of human suffering due to armed conflict, protects persons who are no longer involved in armed conflict and restricts the means and methods of warfare. CRC sets the minimum standards to ensure fulfillment and protection of every right of the child. There are 44 Articles in the CRC, and one of that, Article 38 is related to CRC's compliance with IHL provisions.

IHL also provides that children are entitled to full protection under the rules of IHL and CRC offers protection of children in both peace and war times. This is where they also differ. Children are viewed as holders of human rights with corresponding obligations on states as duty bearers. I'd like to mention that IHL sets the age limit of the child at 15 yrs, whereas CRC under the optional protocol on children involved in armed conflict has raised the level of children under protection. The age limit is 18 years old, meaning, that below 18 there should be no recruitment of children to armed groups including the AFP and also the rehabilitation and integration of ex-soldiers and technical cooperation.

In IHL you have the children's benefits from protection and provision on particular emergency situations—rules on evacuation, family reunification and for CRC it takes a long term perspective on child development because it is for the total survival and development of the child, not only in situations of armed conflict. To summarize, both IHL and CRC apply in times of conflict. The rules providing both for the best interest

and protection of children and interaction between IHL and CRC should be mutually supportive rather than exclusive and should always be for the best interest and protection of the child.

Next are the government's efforts regarding protecting children in situations of armed conflict. There are several legislative actions which the Philippine government has already taken. What really stands out is RA 7610, the law which provides especial protection of children against abuse, exploitation and discrimination, with provisions for children in situations of armed conflict. The more specific action here is related to Executive Order 56, in 2001, which is the adoption of a comprehensive program framework for children involved in armed conflict.

Another broader effort of the government is the National Plan of Action for Children. Right now the second part of the NPAC covers 5 years, from 2011 until 2016, and it has a long list of programs, policies which support these various programs. This National Plan is rights-based. It was designed that way and it supports the achievement of the millennium development goals. But in addition to that is a program for children or a goal and policies for children who are in armed conflict situations. The other unique part is a comprehensive framework for monitoring and evaluation so that we will know if our efforts from the beginning of the plan are really translated into outcomes for children.

Another effort that I would like to mention is the establishment of many laws in local councils for the protection of children. This is very critical because it shows that even at the lowest political unit of our country, we have an institution which protects the rights of the child. It is the Barangay Council for the protection of children. All the people advocating child rights should be involved in activating and really making these local councils functional, because they are the first line of defense in the local level. It's been there for almost 63 years, but until now we're still talking about making it functional. And this is what we are really focusing on now, how to make these councils functional because they will take care of the rights of children in armed conflict situations. It is not the people in Manila but in the villages.

We are closely working with the PNP and AFP on the establishment and operationalization of the monitoring, reporting and response system or MRRS with the NCWC which addresses grave child rights violations of children in situations of armed conflict. This is our response or our compliance with the UN Security Council resolution, to establish a monitoring, reporting and response system of victims of grave child rights violations. This will generate a centralized government data base on coordinated and timely response on grave child rights violations in situations of armed conflict.

The six grave child rights violations include killing and maiming of children and the recruitment and use of children as combatants, as couriers and as kitchen staff. These are also considered as part of grave child rights violation—attacks on schools, abduction of children, rape and other gender based violence and denial of humanitarian access.

These are the six grave child rights violations that we would like to monitor and respond to. It's a big challenge. We have started developing agency guidelines particularly AFP and the Department of Education are coming up with guidelines to show what these violations really are. This requires very thorough and specific guidelines. We've been talking about it in so many meetings and until now we are still fine tuning all these guidelines. There is

a proposed bill on children in situations of armed conflict that has passed the lower house and is now in the Senate.

Our challenges: When will the bill pass? Because that will really provide us the leeway to act on the programs and policies for children caught in situations of armed conflict. In terms of MRRS, a big challenge is how to update our data and our reporting in order to respond. We would like to emphasize that the reporting is not the end goal of this. It is really how we respond to the cases of the children raped in evacuation centers, children that are used as couriers, and some children that are even recruited as combatants by armed groups.

How do we provide services such as counseling and reintegration to children. We have these government agencies in this MRRS, our colleagues from the DND, PNP, DSWD, OPAP, DOJ, DepEd and DOH; how do we embark on capacity building. For 2013, we are going to start with a few provinces, and these are the provinces which have high populations or incidences of child rights violations in conflict. The figure that we have for children affected by armed conflict situations is between 30,000 to 40,000 children. The figure reported earlier by Balay, 400,000 is our overall population and these are all IDPs. But the 30,000 to 40,000 is our estimate of children in armed conflict situations.

Two Cases of IHL Violations

Atty. Dianne De Leon
CHR

I will be presenting two cases. We opted not to disclose the title of the case as well as the identities of the parties for these cases are still pending in investigation with the Commission on Human Rights.

Case No 1. Is about a killing of a certain victim and wounding of another which occurred sometime in July 2011. During that time, the victim, his son and his mother were sleeping inside their nipa hut situated in a barangay somewhere in Bulacan. The shooting that happened was allegedly caused by the indiscriminate firing allegedly committed by soldiers which resulted in the death of the victim and the wounding of the victim's son.

Said soldiers were said to have mistaken the victim as a member of the NPA. The wounded son of the victim alleged that while in confinement at the V. Luna Hospital, he was forced by the soldiers of the Philippine Army to admit that he is a member of NPA and out of fear he was forced to sign a blank paper. Again, when he was transferred to Fort Bonifacio Hospital he was forced to admit that he is an NPA but he replied that he is a mere charcoal maker.

The CHR conducted an investigation particularly the Regional Office in Region 3. An ocular inspection was also conducted where the team recovered 43 shells from an unknown caliber of fire arms, which we later endorsed to the PNP Regional Crime Laboratory for comparison with the slugs found in the buttocks of the victim and his wounded son. The case is still pending investigation before the CHR but we already requested the chief of staff of the AFP to allow the members of the concerned infantry battalion of the Philippine Army to submit their respective firearms for ballistic examination.



The last case happened sometime in March 2012, when a sudden explosion was heard in a certain barangay in the province of Capiz. As a result, a child, six years old, was killed, and another child, three years old, was severely wounded. Said children were playing in their own backyard when the explosion happened nearby, hitting both victims on different parts of their bodies. Both were brought to the hospital for medical treatment.

Police conducted an investigation but unfortunately, the crime scene was already contaminated allegedly by some of the community people. Fortunately, a barangay official was able to find an alleged shrapnel from an M203 grenade. They went to the Philippine Army detachment in the area and conducted an inventory of the ammunition of each and every person. According to PNP all ammunitions were accounted for, including holders of M203 grenade launchers.

The victim's father and other witnesses alleged that before the explosion they heard a soft explosion and a whooshing sound from the army detachment that was situated 200 meters away from where the incident happened. Thereafter they heard the explosion downhill from the detachment. The status of these cases are still pending before the Commission.



OPEN FORUM

Dr. Aurora Parong

Exec. Director, Amnesty International

I'd like to ask Director Vigo if there is a program for building local councils for children, especially in areas where there is armed conflict right now and areas where there are extractive and mining operations. Second, I'd really like to ask the group, can you approve this resolution, a resolution that the case of Juvy Capyon who was killed along with her two children (Bilaans) in Kiblawan, Cotabato because allegedly the Philippine Army strafed their home. That occurred just two months ago. That is the same case that Prof. Harry Roque mentioned, which is related to the Tampakan project that Sagittarius Mining Inc. or SMI operates. I hope by tomorrow we will not be pointing at each other, that the civil society did not complain, that these agencies did not give me the information. I hope there will be a *motu proprio* action for every investigation by the Philippine National Police, by the DOJ as well as the CHR in relation to Juvy Capyon and her two children.

Atty Vigo:

I'm glad that question has been raised because everybody has responsibility in making sure that all these local councils are really functional and working. Yes, each and every barangay should have a council for the protection of children. But sad to say that only about 30% of these local councils are functional

at the barangay level. We are working with World Vision, Child Fund and other NGOs to really make these councils functional. We are running a training program now and we have developed materials, especially advocacy materials to encourage all groups to make these barangay councils functional, specially in areas that really need them. In the course of our implementation or pilot testing of the MRRS, these are the provinces that really have a high prevalence of armed conflict.

One of our efforts is to make the barangay councils functional. It's important that while we want to advocate for the barangay level, the municipal or city under provisions should also be functional, because these are the groups monitoring the barangay councils. That's why it's a really very big task and I would really like to invite everybody to work on this. Several NGOs have really expressed interest in doing this task. Because if we think about it, this law is now 63 years old. It is in the civil code and it was also strengthened by RA 4881 in 1967 and again strengthened by presidential decrees during the time of Marcos. But until now we are still talking on how to make these councils functional. And I recall former Secretary Jess Robredo was really trying to make some pronouncements to make these local councils really functional, and he saw the potential and the critical role of these councils in protecting the rights of our children at the barangay level. Even sexual abuse in the family can be addressed through the barangay council for the protection of children, because these are the people who are there.

ORIENTATION ON PARALLEL DISCUSSIONS SUMMARY OF AUGUST 14, 2012 RTD

Rebecca Desiree E. Lozada

National Coordinator

Philippine Coalition for the International Criminal Court

Our theme and task for this second summit is to effect IHL through a Philippine Program of Action. Let us review our objectives for this summit. The first is to gather government agencies and non-government and civil society organizations to revisit the cause and agreements of the First IHL National Summit and review the actions taken for IHL compliance. The second objective is to come out with recommendations in pursuing effective measures to address challenges. The third is to fulfill the recommendations of the First National Summit to create a National Action Plan for IHL.

Just to review the First IHL National Summit. The communiqué of that summit specifically makes five calls although there were many recommendations.

The first is for major parties in the armed conflicts in the Philippines to bring into force by means of special agreements in the context of peace processes, those conventions appropriate to the extent of their respective armed conflicts. We already have an update earlier on the framework agreement on the Bangsamoro and of course we all know CARHRIHL, and we all know that all parties have actually articulated that they are committed to IHL.

The second call was for the Commission on Human Rights to seriously adopt the policy of entertaining, investigating and processing complaints of IHL violations. And third was for civil society to continue to play an important role of a neutral impartial civil society in the promotion of respect and implementation of IHL in the Philippines. Civil society groups who are here also spoke and showed their work in this.

We already gave an update earlier. Since the first summit three years ago, we have seen the passage of the Philippine IHL Law or RA 9851 in 2009. Another update was the Senate ratification of Philippine's Rome Statute of the International Criminal Court in August, which came into force in 2011. We also have a National Action Plan on United Nation's Resolution 1325 or women involved in armed conflicts. We have in the Armed Forces of the Philippines the 2011-2016 Internal Peace and Security Plan called Bayanihan.



And of course the Bangsamoro Framework Agreement that other speakers spoke about earlier.

With these updates, and we already have had several talks on these issues, we come now to the most important part of the summit which is to look again into these aspects. One on work in education and information, communications in IHL; second on work on monitoring, investigation and prosecution, and third, the discussion on work on humanitarian interventions.

To make our work easier, we also had our RTD on 14 August 2012, a few months ago, where we already put in the steps and some recommendations on these areas of work. Your facilitator will have some papers from that RTD to review the calls and recommendations that came out. They also have fuller documentation if you want to look at it. What will happen now regarding those calls is we will problematize them, and the thing about problematizing them is we have calls but sometimes we are not clear on how we will execute those calls, how we will put them in operation. So from the calls

below, after you review them, and add what you want or refine the calls, then look at what we can do in the next 1-3 years. You can look at the main priorities for our work and then plan out together how we will execute the calls. So we will map out which ones to prioritize for the first, second and third years, and we will talk about how we will execute including who will take on the task or who will work together or not together but preferably together. If possible after that we will have to discuss the key indicators of that execution plan.

If you want to discuss other things that came up you can do that. In the context of discussing these areas of work, if you see other areas of work that you want to discuss, please feel free to do so. But hopefully we have to remember that we are doing this also because of the third objective, that we want to come up with the National Action Plan. This will be our national action plan, we want to know what we will do in the next 3 years especially in the first year, how we will do it, who will do it, what are the indicators that we are doing it well and then finally, how we are going to work together.



THEMATIC DISCUSSIONS





REPORTS ON THEMATIC DISCUSSIONS

Group 1

Report: Education, Information and Communication

Rapporteur: Epifania Garay

Problematized issue: Review of the AFP manual on Human Rights and IHL and the Rule of Law.

Priority: A standardized curriculum and manual on IHL for all levels.

Fields: Barangay as a mechanism where the IHL will be launched or anchored. For the AFP the lowest mechanism is the detachment, peace and development teams in communities, PTV 4 and social media sites.

Who will be responsible: All the participating agencies during the discussion will participate, where they will be comfortable, but it was highlighted that the CHR will initially convene the first meeting of the technical working group (TWG), maybe on the first quarter of 2013.

We considered research in relation to the development of materials on IHL, like comics, primers and other materials that we wish to produce. We are planning to come up with story lines about IHL and give copies to a radio or television network, but an issue was raised about the costing for the infrastructure in putting up an information or ICTC system.

CHR Graduated Curriculum

Curriculum education for the police and military is in place but it merged, Human Rights Education and the IHL. We have to consider doing this separately. Re the participating agencies, there were considerations from the academe like the PUP, and CHED was also mentioned but there was no CHED representative.



The PHILJA is about the concerns of the IHL course of judges in the Philippine Judicial Academy. The GPH CARHRIHL primer was considered; though it is a political document, it is important that the GPH and CPP-NDF would both know about respect for human rights and IHL.

Observations/Suggestions

Gen. Tutaan:

If possible, we would like to add an education, information and communication component to mainstream IHL to the public, to the community. The target market and target groups mentioned were mostly the security sector, judges, prosecutors and educating or giving information to them. What we have to tell the people on the ground, the barangay, the sitio, the tribal leader is that these are their rights as guaranteed by RA 9851 and IHL itself. So if somebody threatens them, whether a state or non-state actor, they will know their rights by virtue of IHL are being violated.

That is a suggestion on our part because what we're doing in community organizing for security and development, that's what we're undertaking as far as IPSP Bayanihan. Unfortunately when we hit the children sector and the women sector as far as 1325 is concerned, Karapatan calls it militarization.

Ms. Garay:

We actually considered that in our discussion, the IHL and the CHR have a mechanism, the barangay human rights action center. However our mandate was on human rights and we proposed also to our commission that our mandate should be expanded to include IHL in the barangay. However, it will take a policy guideline to that effect.

Speaker:

An additional suggestion to what Gen. Tutaan said. Maybe we can also disseminate to the Peace and Order councils because that already involves local governments.

Speaker:

During our discussion we also mentioned the Department of Interior and Local Government and the barangay. We will consider peace and local councils as well as children's councils in the barangay.

Speaker:

Clarification. The problem is to review the AFP manual on human rights and IHL. I am looking at the plan, where is the review. Are the names placed there those that will only convene the review, but other organizations that are interested will be invited to take part.

Speaker:

Yes. As I've mentioned, in the first quarter of 2013 we will be convening a temporary TWG that the CHR was asked to lead for this purpose. Maybe during the discussion at our first TWG meeting we will consider those matters as to the plan.

Chairperson Rosales:

You said that barangay human rights action center could be a part of the barangay IHL. All the CHRs are doing an overhauling of the barangay human rights action center program, because based on assessment, they didn't operate efficiently and effectively. There are four points to consider.

First, it has to have legal basis, an ordinance, financial funding, proper orientation and an organizational connect to the regional. We are

actually not abandoning the barangay human rights action center but what we have in mind is what we call "HRAC and ROL project" HRAC means Human Rights Action Center and it can be municipal level, zone or district level. It is going to be flexible, contextualized within the realities on the ground. ROL means Rule of Law. You have barangay HRAC and ROL, barangay human rights action center as IHL. *Wag lang nating itatali sa BRAC; hindi pa yan pwede hanggang ngayon, kailangan may transition period first*

Ms. Garay:

Thank you for the insights and we hope that it will materialize in year 2013.

Comment from AFP

Is it true that there is no IHL unit at the regional office of CHR? My suggestion is to strengthen IHL at the regional level as well as to the main, *kasi sa mga tao ang alam lang is CHR human rights, IHL was merely a component of HR. Mas maganda po kung mas ma-uplift ang IHL through regional offices.*

Speaker:

Thank you for that observation. As regards to the promotion aspects, our regional offices, information officers are doing the IHL information dissemination, but on the part of the protection level, I think that there is none yet.

We will ask our dear Chairperson if the enhancement of the CHR in IHL unit will be replicated in the regions since there is only 1 division in the CHR central office temporarily holding the IHL concerns as regards to the promotion aspect. And we only initiated for the protection aspect this IHL TWG for the formulation of policy guidelines on IHL.

Chairperson Rosales:

We will definitely spread the good word around nationwide to our sixteen regions and our 5 sub-offices on one condition, that all of you here whether in Government, non-government, uniformed or civilian, please lobby for the passage of the charter bill of the CHR in the Philippine Congress the soonest time possible.

Group 2

Report: Monitoring, Investigation and Prosecution Rapporteur: Jonas Turingan, Libertas

Issues

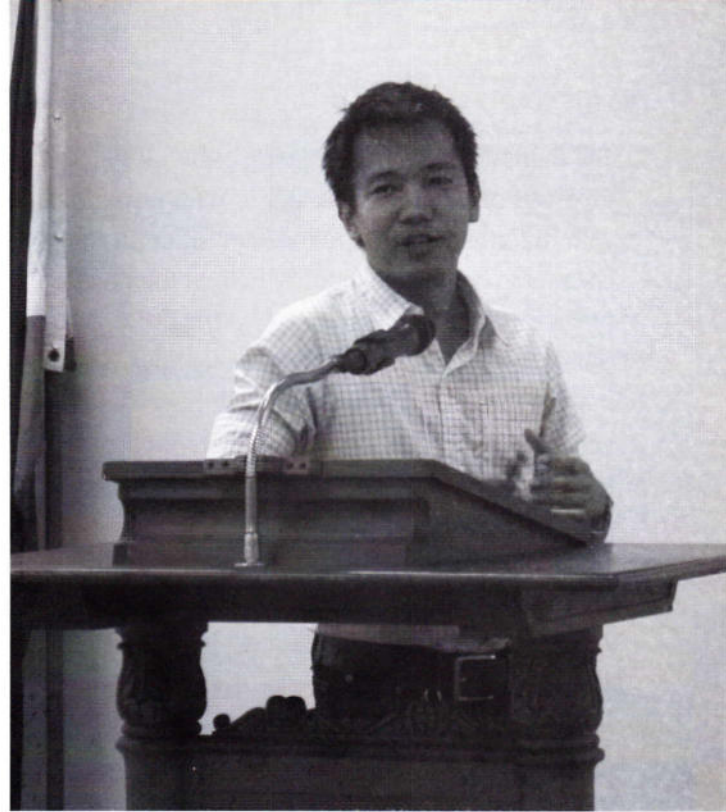
First issue is the lack of cases filed regarding IHL. There is one actual case, and the CHR could look into their data base to find out if there are other cases that could be filed related to IHL.

Second. There should be specific information regarding the state of children in situations of armed conflict, which should be gathered because when we talk about conflict, when we talk about labor, there are always children involved. The concept of the right of the child should always be paramount in all these discussions.

Third. There is a suggestion that there must be a change in the mindset of the DOJ regarding the prosecution of IHL cases. It appears that some are not aware of IHL, and because of that they file regular cases instead of IHL cases. Atty. Jim raised the case in Davao where the law enforcer was actually conversant and knowledgeable about the law and they wanted to file case against a certain perpetrator but it was the fiscal who refused to file an IHL case and instead filed a frustrated murder case.

Fourth. Lack of a coordinating mechanism wherein information, evidence, data are gathered, cases are built up and usually filed against these suspects but because there is no mechanism, nothing happens.

Fifth. The focus is not just about filing cases, but on the actual prosecution and the eventual bringing to justice of these perpetrators. In the presence of non-state actors in local communities, there is an issue of intimidation, most of the time the community is afraid of non-state actors; they refuse to act as witnesses or be involved in these cases and that is quite a large issue. In the law, it states that a regional trial court has exclusive jurisdiction in IHL cases but we thought



that there might be a need for the designation of special courts to handle IHL cases and not just to give it to regional trial courts.

Priorities that are achievable next year

First. Designation of special IHL and HR courts, with the training and designation of special prosecutors, investigators who can handle cases of probable IHL violations, perhaps starting in those areas that have large numbers of skirmishes and internal armed conflicts.

Chairperson Rosales actually volunteered earlier that she could write a letter to the Court Administrator who could then submit a proposal to the Supreme Court en banc, raising the idea of designation of special IHL and HR courts.

Gen. Tutaan identified certain areas—Regions 2, 5, 8 and the whole of Mindanao which could be possible targets for pilot areas for these special courts. Eventually one or two judges could be designated to these special courts for each region but we can start with those pilot areas. The PAO actually suggested that perhaps the Supreme Court could grant special rules of court for these special IHL courts, specifically with regards to evidence.

The importance of training for the special investigators and prosecutors is emphasized along with information and education directed towards CSOs who could also actually help in the monitoring and investigation of IHL cases. The ICRC and the Philippine Judicial Academy actually have a training module for IHL judges, which they have started and which will continue in the next year. Apparently they have three more training session coming up.

Second. Creation of a data and information clearing house and the case build up mechanism.

The concept is, there could have a centralized database wherein data and all other information pertaining to such cases could be submitted, collected initially by all sectors, government agencies, CSOs and other stakeholders who can submit it to this one large database or databank which will facilitate the filing of cases regarding IHL. And if possible to compile portfolios on popular violators of IHL and HR which can be used to file cases later.

Also, monitoring and case build up mechanisms should be established to make sure that cases are not just filed and the perpetrators brought to justice.

Third. Strengthening of the witness protection program and similar mechanisms.

The DOJ witness protection program should be strengthened and as what Chairperson Rosales suggested, there should be a positive program guided by the concept of restorative justice. The witnesses should not be treated as if they were prisoners with limited rights and freedoms. These witnesses whether state and non-state actors should not be treated like prisoners. The possibility of setting up similar mechanisms in related government offices should also be studied. Another suggestion is the development of sanctuaries for the protection of witnesses with the help of CSOs with the necessary private and public support.

Fourth and final suggestion. Case build up on identified IHL cases.

Efforts and cooperation should be initiated towards case build up of existing cases which could actually

be filed in court. Suggestions are the Dona Remedios Trinidad Case, Juvy Casyon case and other cases which CHR suggested that they could try to look up in their database and possibly be filed under IHL violations.

The draft Memorandum of Agreement on the National Monitoring Mechanism was distributed to the participants. According to Usec Nonoy, we have actually finished identifying the functions and responsibilities of the members coming from the Executive, but given the development wherein we have a new Administrative Order perhaps the DOJ would want to revise their functions and responsibilities in relation to the function of this new interagency body. What lacks in this document are the contribution of the CSOs and the NGOs. I'm opening to the body the possibility of additional members coming from CSOs.

Note that this is a draft and I would like you to take a look at it, if you think that it needs more revisions then so be it. If there are some NGOs here that want to take part, please coordinate with the CHR because it acts as the secretariat of NGOs and CSOs participation in this mechanism. If we can have your suggestions, then we can have a final run through. That draft is a product of a series of consultations under supervision of the CHR. For a time it hibernated, but now we are resurrecting this new creation,

Group 3

Report: Humanitarian Intervention Rapporteur: Kaye Limpiado, Sulong CARHRIHL

How do we strengthen NCIP to answer the concerns of IPs? How can we ensure that both parties would respect intervention in terms of disasters?

One. For immediate action, explore setting up a national convergence for IHL and come up with or lobby for an IHL National Committee.

IHL used to have a group, a National Committee that met regularly; it is also an interagency, but right now it has been scrapped. What we have right now is EO 134

but it will be activated only for preparing the IHL month. The lead agency would be PHRC working closely with PRC and ICRC. They are the heads of organizers. DSWD, OPAP, DFA, DND and all that will be included later as part of the agency and later DOLE will be included for the livelihood aspect together with the CSOs.

Two. Post Traumatic Stress Management for Service Men and Women

In humanitarian intervention what CSOs or government agencies do is give psychosocial healing to the victims of armed conflict, but we sometimes neglect service people, combatants, military men and women. This involves policy intervention within the AFP and the PNP for capacity building of soldiers or police officers to do the counseling. Because what they do is just initial debriefing, but the debriefing may not be enough because the trauma may be deeper.

To strengthen the program of DSWD and DOH for psychosocial healing, not only for the victims but also the family members and the community as well. DOH also suggested capacity building at LGUs (local

health officers) to help, because the armed conflict takes place in the community, so let's make use of what we have in the locality.

Three. Empower LGUs and NGAs to respond to conflict and build capacity of LGUs to provide humanitarian intervention.

Effective mechanism on how to provide humanitarian services in partnership with local government agencies, those local risk reduction management committees. The mapping of services, these are for NGAs, services that are provided from different NGAs so we could know what services are being provided and what other agencies can provide so there will be no more overlapping. Those NGAs will conduct internal capacity building supported by an IHL national committee. We did not get the exact name of the law but the RA which says that manmade disasters are included in the disasters that the RRMC responds to.

Identified Issues

Capacity building for the PNP to take full responsibility for the country's internal security and for the AFP to deal with external threats.

How to sustain and intensify livelihood efforts in areas of armed conflict via DSWD and DOLE.

How to strengthen NCIP's capacity to deal with IP concerns beyond monitoring.

How to ensure that the GRP and NDF uphold humanitarian intervention in times of disasters.

Review of the anti-torture law to include non-state actors since excluding them encourages impunity.

Clarification of the mechanism for transitional justice.

Comment (Usec Nonoy)

We have advocates moving heaven and earth to have the IHL component within the PHRC. But we had to sidestep primarily because of the sensitive issues involved and we did not have clear solutions. What we can do for now, with such a proposal coming from this body, is we will try to see how we





can pursue this undertaking. It is good we have someone from the office of the Executive Secretary. We will coordinate with their group because they are the ones that usually “look at the forest rather than the trees.” We can come up with a new proposal on how this thing can be made operational.

Comment

There seems to be a growing focus on NSA accountability and this we have already recognized. We recognized

this before the anti-torture law. We also recognized the need for such even with this anti-disappearance bill. Because of this, there is a conscious effort on our part to really resolve the matter once and for all. We have already coordinated with certain groups which are really into NSA accountability. And I hope by the first quarter of next year, one of our major human rights forums will be focused on how we come up with a policy in regards to NSA accountability. This would help especially with the implementation of CARHRIHL.

SYNTHESIS





SYNTHESIS OF THE PROCEEDINGS

Karen Tanada
Executive Director,
Gaston Z. Ortigas Peace Institute

Key points

The main thing is to come up with a clearer program of action that we can be happy with. To use an analogy, for women, we have a national action plan on women, peace and security related to the UN Security Council 1325. There are 14 points. So maybe we can streamline, how many points in this program of action. Some of very important points that we got:

Regarding information, education and communication.

To come out with a standard curriculum and to bring it down to the field, to the grass roots so that some of the ideas will be used in the detachments, barangays, and even in peace and order councils. BRAC was also mentioned but Chair Etta said there is something they have to fix about BRAC. There's also a reminder asking our support for the Human Rights Charter and to be able to use all sorts of media in promoting HR and IHL.

Regarding humanitarian Intervention there's this issue of again exploring the formation of an IHL National Committee. There are some considerations about the IHL National Committee. Another key point is about post traumatic stress management that's part of the issues that need to be addressed and also to empower the LGUs and the NGAs.

There's also the concern in responding to the current humanitarian crisis ongoing right now in Mindanao, specially on how can we connect IHL work with this. We're actually calling for a humanitarian ceasefire ideally on the part of Government and also on the part of the CPP-NDF-NPA because their areas are the ones affected so people can go into relief with full



safety and no fear of any harm. Again mentioned was the issue of non-state actors, how to address this, and there's a plan already.

Regarding monitoring, investigation and prosecution.

Among the key points is the National Monitoring Mechanism and we have learned that they are waiting for the CSOs to respond to this. To designate the special courts, HR and IHL courts in particular areas, particularly the conflict areas.

Second, to have the information and monitoring portal which will integrate all information on cases filed, being monitored whether from Government, CSOs, international. Ideally to have that sort of one information clearing house or portal.

To strengthen witness protection and ensure the concerns of children and indigenous peoples, and focus on particular cases that can be a starting point or pilot case. I think that those are some of the key action points that came out today.

The actual action and the people in charge, we asked that in our group. Are there people assigned to action points? They said this may come out in the plenary, and who will be the lead per action point.

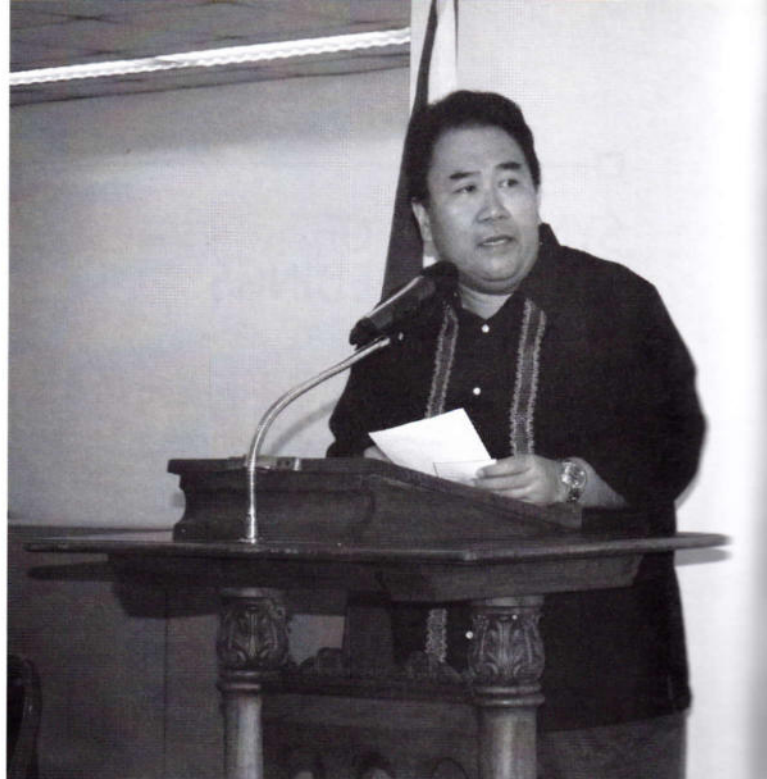
REMARKS

Usec. Severo Catura Presidential Human Rights Committee

A major concern here which we really need to point out is the need for a focal agency which should be able to effectively orchestrate this, because if there was one problem which cropped up in discussions of the core team that organized this summit is the fact that there seems to be a lack of follow through on the main action points from the first summit.

You can be assured that CHR and PHRC will be working together if only to ensure that what was agreed upon in this gathering will be implemented and will be monitored. There will be accountabilities that need to be identified and that's where our job will focus on.

This year we already had a meeting on the IHL so what I want to propose is to hold another meeting by August next year to know the results you by August,



and then we could work on something that we could report by that time. We also hope for the participation of the regions by December.

I think it is envisioned by the core group to flesh out specific time frames. Please, consider that what we are looking at here is a National Agenda on IHL so we are looking at yearly updating as well as progress of action on programs that have been proposed.

CLOSING REMARKS

CHR Chairperson Loretta Ann P. Rosales

In behalf of the CHR which is part of the core group, with PCICC, PHRC, EO134 Ad Hoc Committee, we would like to express our appreciation to all participants for staying and being very interested. I think that we were able to establish quite a number of more substantial areas of concern, institutionalizing things that we're poring through and working out.

Some institutional efforts that we addressed were setting up or designating IHL and HR courts. That's very important; in fact we can look at IHL and HR courts designated in troubled areas where we can have a pilot project.

My suggestion is to undertake a pilot area instead of spreading ourselves thinly, kalat kalat. Lets concentrate

and focus on Regions 2, 5, 8 and Mindanao. When we do that we can at least be able to assess and evaluate our work, before we go to the other regions. That is one institutionalization.

The second institutionalization effort was when we said let us start a clearing house and build up our base information and ensure that everybody contributes to this. Outside of this likewise, we should include communications.

Communication is very important. It did not seem to be underscored a while ago. PTV4 would probably be a very good mechanism to spread the word on IHL.

The third point of institutionalization is deepening of our understanding internally through the case build up of IHL cases. This will really help us sharpen and be more discerning in our concepts and our understanding of looking at the cases, seeing the difference between what's IHL, criminal, what is HR, what is civil.



Second National Summit

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IHL SUMMIT



IHL SUMMIT



RTD 1 Pre-Summit



RTD 2 Post-Summit



RTD 3 Post-Summit



RTD1: PROCEEDINGS OF THE IHL ROUNDTABLE DISCUSSION (Pre-Summit)

14 August 2012, Bahay Kalinaw, UP Diliman, Quezon City

“Towards a Philippine Program of Action on Effecting International Humanitarian Law”

BACKGROUND AND OBJECTIVES

The RTD is a product of discussions among the co-organizers—the Commission on Human Rights (CHR), Presidential Human Rights Committee (PHRC), the Philippine Coalition for the International Criminal Court (PCICC), and EO 143 Ad Hoc Committee—on their work on IHL in general, in commemoration of IHL day this year and the 10th anniversary of the International Criminal Court.

The RTD aims to:

1. Gather government agencies and non-governmental and civil society organizations to a sharing on issues as they bear on the current IHL implementation;
2. Come out with recommendations in pursuing effective measures to address challenges; and
3. Initiate a process that will fulfill the recommendations of the IHL National Summit held on 12 August 2009 to create an action plan for IHL.

WELCOME REMARKS

CHR Chair Loretta Ann P. Rosales

At the onset, Chair Rosales called on the participants to collectively work in putting an end to impunity and making human rights a way of life. She said this must serve as the vision of all stakeholders in developing a program of action on effecting IHL.

She said that the Philippines is one of the leading countries in Asia Pacific that legislated a

domestic legal framework for institutionalizing, mainstreaming and internalizing IHL in our consciousness as a people and as a nation through RA 9851. This, she said, is in furtherance of the Geneva Conventions to which the Philippines is a state party.

In this respect, Chair Rosales underscored the need for communications mechanisms and transactional arrangements which will provide immediate and strategic actions that are effectively responsive to the situation on the ground. She also underscored the importance of every government agency's active role in the implementation of the IHL law. Thus, she said a program of action on effecting IHL is a vital tool in order to bring this about.

In closing, Chair Rosales emphasized the importance of addressing social justice. She cited the case of IDPs and IPs in Mindanao where the root of internal conflict is the peoples' struggle for their ancestral domain. She said that the issue on ancestral domain must be addressed if we are to resolve internal conflict and that this should be part of the IHL program of action.

BRIEF BACKGROUND OF THE RTD

Usec. Severo Catura

Usec. Catura said the idea of holding an RTD on IHL came out in the course of the planning of activities for the IHL month celebration. In a meeting with the organizers represented by PCICC, CHR, PHRC and the AFP HRO, he said it was deemed important to have an assessment on the implementation of the IHL law.

The organizers recalled that a National Summit on IHL was held on August 12, 2009.¹ One of the objectives or target output of said IHL Summit was to come up with recommendations towards a Philippine Program of Action on IHL. Since then, however, no follow-up activity has been conducted to fulfill the objective.

Given this background, the organizers proposed to hold this RTD in preparation to the eventual holding of a Second National Summit on IHL within 2012.

It is proposed that the RTD should serve as an impetus for all government agencies and CSOs/NGOs concerned to undertake their respective assessment on their role and responsibilities on IHL before the holding of the Second National Summit, considering the enactment of the IHL law in 2009 and the recent ratification of the Rome Statute of the ICC.

MESSAGE

Brig. Gen. Domingo Tutaan

Gen. Tutaan said the AFP is actively taking part in the celebration of the IHL month under the theme: "Itaguyod ang IHL: Sibilyan ay Pangalagaan" which is a manifestation of the individual and collective desire of various stakeholders for the implementation of the IHL.

He said the principles of IHL, such as proportionality of force, non-discrimination, limitations on the means and methods of warfare, must be concretized in the program of action on effecting IHL, based on the Philippine context. As such, the AFP is actively participating in the RTD with the end in view of protecting the civilians or non-combatants.

Gen. Tutaan also said that the AFP wishes to bring to the fore the experiences of soldiers from the ground as he calls for a collective condemnation, as IHL advocates and as a people, of violations being committed by state and non-state actors alike. On this, he cited the statement of WeAct 1325 which commends the GRP and the MILF panels for their peace efforts despite the attacks of the BIFF (Bangsamoro Islamic Freedom Fighters).

The statement, he said, appeals to the BIFF to refrain from further instigating violence which has already displaced at least 20,000 civilians. It likewise appeals to the AFP to ensure the protection of civilians in its pursuit operations against the BIFF.

Finally, Gen. Tutaan informed the body that the AFP is represented in the RTD by all major forces—from the Army, Navy and the Air Force. He cited the efforts being undertaken by the AFP such as the incorporation of the observance of IHL in the Internal Security and Peace Plan (Oplan Bayanihan) and the Rules of Engagement which spells out what should soldiers do when dealing with the enemy, civilians and the sick and wounded in compliance with IHL.

KEYNOTE ADDRESS

Judge Soliman Santos, Jr.²

Judge Soliman discussed the advances made on IHL since the National Summit that was held three years ago on August 12, 2009. He said one of the most important developments is the passage of the IHL Bill as RA 9851 in December 2009 and the ratification of the Rome Statute of the International Criminal Court (ICC) on August 2011. He said these are "not just tactical victories for the cause of IHL as well as human rights in the Philippines; they are no less than strategic victories with long-term implications and benefits."

He elaborated that "what is particularly significant about these achievements is that, with RA 9851, we actually already implemented the Rome

1 For reference and further study, the Commission on Human Rights published the proceedings of the National IHL Summit in 2009. Copies were distributed to participants during the RTD. The Education and Research Office (ERO) of the CHR is in charge of the publication.

The CHR also held simultaneous Regional IHL Summits in 2009. The Commission's IHL Committee is currently consolidating the reports.

2 Judge Soliman Santos, Jr., is a human rights and IHL lawyer who prepared the three drafts of the IHL law in 2002, 2003 and 2006. He is former Coordinator of the Philippine Campaign to Ban Land Mines and now Presiding Judge of the 9th MCTC of Nabug-Bato, Camarines Sur and Acting Presiding Judge of the MTC of Balatan, Camarines Sur.



Statute even before we ratified it. Even then, this ratification gives us the added value of being part of an international treaty regime centered around the ICC, the various mechanisms and resources of which we now have access to as a State-Party. More so now that a Filipino in the person of Senator Miriam Defensor-Santiago has since been elected as a judge of the ICC.

The potential of this access in terms of securing appropriate assistance for our overall efforts in effecting IHL has yet to be really studied. What is clear, in general terms, is that in so far as the Rome Statute and the ICC represent the highest development of international criminal law to date, then our linkage to this judicial and jurisprudential technology cannot but help upgrade our own criminal justice system, itself a much needed judicial reform. Some aspects of criminal law reform are actually already embodied in RA 9851."

With RA 9851, Judge Soliman said that there has been a corresponding raising of consciousness of IHL as a distinct normative framework, most notably in the AFP. One concrete "small" example, he said, is that our soldiers now recite "pledges of commitment" to IHL. Further, he quoted

AFP Chief of Staff Gen. Eduardo Oban who said that "There is no place for barbarism in the noble profession of arms. In fact, our profession demands that we remain as humane as possible even in the face of beastly and savage aggressors."

Judge Soliman said that this is a "small" pledge for the soldier, but a giant leap for the armed forces. He noted the observation of civil society quarters that "there is a generally improved adherence to human rights and IHL among uniformed personnel, with less violations committed by those who have undergone education and training in human rights and IHL, which is now the main effort of the AFP Human Rights Office."

Judge Soliman added that "what may be the real giant leap, no less than a major paradigm shift, for the AFP is a strong platform on human rights-IHL- rule of law, accountability and civilian engagement offered by its Internal Peace and Security Plan (IPSP) *Bayanihan*, which in turn relates to security sector reform, including defense reform." He said "the aspect of civilian engagement in general is also particularly relevant to the promotion of human rights and IHL because these causes are traditional advocacy issues of civil society organizations (CSOs)."

Judge Soliman cited as example the Consultation Workshop on Human Rights and IHL that PCICC conducted in partnership with the AFP Office of the Deputy Chief of Staff for Operations (AFP-OJ3) and the National Defense College of the Philippines (NDCP) on 16 August 2011. He said “the workshop discussions here were very rich in the sharing of experiences and insights among civil society and government stakeholders. He urged the participants not to reinvent the wheel, as it were, with each workshop consultation, RTD or summit, as there is much to build on from past discussions.”

Judge Soliman lauded the civil society engagement on the AFP strategic plan called *Bantay Bayanihan*. He said “this civil society led initiative that aims to create an oversight body over the armed forces, including defense and security policies (strategic, tactical, operational levels) is remarkable as the AFP appears to be allowing this particular assertion of civilian supremacy over the military. Judge Soliman said “this kind of civilian engagement on even tactical and operational matters of defense and security policies, already shows that we have come quite a long way in bridging the long-standing traditional gaps of mistrust and bias between human rights and IHL CSOs, on one hand, and the security sector, on the other hand. He opined that “the paradigm or attitudinal shifts happening may not only be on the part of the security sector but also on the part of the CSOs.”

Aside from addressing the main advances made since the 2009 IHL Summit, Judge Soliman also discussed the main challenges that IHL stakeholders face at this juncture three years hence, along the thematic work areas of the RTD.

On Humanitarian Interventions especially during massive internal displacement

Judge Soliman said that this is still the biggest humanitarian problem arising from armed conflict in the Philippines. Citing the massive displacement of 30,000 persons in Maguindanao and vicinity due to armed hostilities between the AFP and the breakaway Bangsamoro Islamic Freedom Fighters (BIFF), he said “this comes at about the same time as the even more massive internal displacement

due to the floods in Metro-Manila and Central Luzon from extended heavy rainfall brought about mainly by the southwest monsoon.” He explained that “the confluence of natural and man-made disasters, and the resultant internal displacement, can only overwhelm our overstretched disaster response resources.”

Given this situation, Judge Soliman said that “it makes complete common sense that these limited resources are maximized for applicability to internal displacement response whether in situations of natural calamities or in situations of armed conflict, even as these two different situations have their respective specific needs, dynamics and technology. He said the challenge here might be to develop response interoperability, including at the level of the National Disaster Risk Reduction and Management Council (NDRRMC) which usually deals with natural calamities. It can benefit from the experience and expertise of the Red Cross which regularly deals with both kinds of situations. Interoperability of response technology for these two different kinds of internal displacement is a challenge that is distinct from simple networking and coordination, which are themselves challenges that are common to the two other, more complicated thematic work areas.”

On Education, Information and Communications

Judge Soliman said that this is strategically important as the main preventive measure against IHL violations which involves different levels or sectors of society, from the ground or grassroots level up to the tertiary levels of the school system. Speaking of which, the new accent on Mother Tongue-Based Instruction or Multilingual Education is one approach that would presumably apply to IHL education, just like with general education. The challenge is to develop the appropriate learning modules for each level or sector.”

Judge Soliman explained that, “strategically and preventively, the most crucial sector has to be that of the weapons-bearers, mainly the state armed forces but also the non-state armed groups. After all, IHL as the law on armed conflict pertains to both or all its parties. But even in this sector, there

are different, graduated levels, from the foot soldier up to the commanding officers, who are particularly crucial because the military organization follows a certain strict chain of command. And while the ICRC for one has long developed international instructional materials for different levels of the armed forces, these appear to need supplementing by locally appropriate materials.

The challenge in this thematic work area, as in other work areas, is no longer to just list or matrix the gaps or issues and then the recommendations and action points, but to now pinpoint specific tasks and assign their implementing organizations or offices, along with other planning indicators. In short, it is now time to bring the work on IHL to a deeper, more thorough and ultimately more effective level. For the armed forces, this ultimately should seep down to the military doctrine and operational levels.”

On Monitoring, Investigation and Prosecution

Judge Soliman said that this is the most complicated among the three thematic work areas. He said it is good that the CHR has taken the lead, with a comprehensive monitoring of compliance with human rights and IHL, as well as violations thereof. However, due to manpower and financial constraints, it has had to resort to deputization of monitors, including those from CSOs as well as media.

Judge Soliman said the challenge here “is to refine or institutionalize the mechanism of deputization of human rights and IHL monitors, perhaps drawing from the experience of deputization of fish wardens or *bantay-dagat* for fisheries law enforcement.” He said “it is noteworthy that CHR has conceptualized comprehensive monitoring to be *not only investigative but also preventive*. It is also noteworthy that our colleagues from WeAct 1325 (or Women Engaged in Action on UN Security Council Resolution 1325) have highlighted the need for a *gender perspective in monitoring*, as this would redound to better special protection for women and children.”

Judge Soliman propounded that “the biggest challenges may still be breaking through in the

area of effective prosecution which, although mainly reactive like investigation, also has a preventive value, in that it overcomes the curse of impunity. The particular challenge with RA 9851 is that it is relatively complicated unfamiliar ground for prosecution. The CHR, in cooperation with the DOJ, will have to purposively grapple with it, and for this purpose a special team or task force may be called for, to deal initially with further studies, the possible preparation of a manual for prosecution, some special training and then ultimately test cases.”

Judge Soliman said that “after the RA 9851 and Rome Statute breakthroughs, the main need is no longer so much the passage of more IHL legislation or ratification of more IHL treaties, as it is the effective implementation of, compliance with and enforcement of IHL, being as creative as possible in this with the laws and ratified treaties that we already have. He made a particular exception to this, however, as regards existing and pending legislation such as those on torture, enforced disappearances and extra-judicial killings that, by definition, limit these crimes to only those perpetrated by state agents. He said “this is not in accord with our contextual reality of internal armed conflict between state armed forces and non-state armed groups. The latter, or more precisely their responsible individual perpetrators, should also be covered by such legislation.”

Judge Soliman further discussed “that even with such legislation, or under the existing criminal justice system, our agrarian reform colleagues in the Bondoc Peninsula have many times shared with us the special or distinct challenges of holding non-state actors, who have no permanent address, accountable for their violations of human rights and IHL.” He said “the mechanisms of the peace process with the main rebel groups hold some greater or lesser possibilities. The robust ceasefire mechanisms of the GPH-MILF peace process have been generally effective. The more problematic front of war and peace is that of the GPH-NDFP where there is no ceasefire. There is a CARHRIHL but its Joint Monitoring Committee (JMC) mechanism is also problematic in that it is stalemated. The challenge on the GPH-NDFP front is to develop credible alternative mechanisms of monitoring,

investigation and action, such as Sulong CARHRIHL has been doing albeit mainly at the local community level. ”

On a final note, Judge Soliman said the 2009 IHL Summit Communique, aside from urgently calling on the CHR to adopt a policy of entertaining, investigating and processing complaints of IHL violations, also particularly called on the CHR to develop its own complementary or fall back mechanism to the JMC. He challenged the CHR to “seize the moment, claim the present” of the current CHR and presidential administration to finally get a more effective institutional redress in terms of truth, justice and healing for the CPP-NPA purges of the 1980s before the moment and the momentum are lost, including along the lines of but not necessarily a full-blown “truth commission” that this time should not be declared “unconstitutional.”

In closing, Judge Soliman said that his remarks, as well as the round-table discussions, will show that we have reached the juncture where our collective work for IHL must be brought to the next level, one that is, to draw inspiration from the recently concluded Olympics, *Citius, Altius, Fortius* (“Faster, Higher, Stronger”). He said it is time to move “towards a Philippine Program of Action on Effecting IHL.” It is time to climb another IHL Summit.

PARALLEL DISCUSSIONS

After the Keynote Address of Judge Soliman, the participants formed three break-out groups and proceeded on parallel discussion on three thematic areas, i.e., Work on Education, Information and Communications, Work on Monitoring, Investigation and Prosecution, and Work on Humanitarian Interventions.



THEMATIC DISCUSSION 1

Work on Education, Information and Communication³

Facilitator/Rapporteur: Dr. Ana Elzy Ofreneo, CHR Director

Dr. Ofreneo presented the group's proposed program of action which revolves around five themes: education, media, CHR, accountability and resources.

On Education

- Review of the AFP Human Rights Manual which was launched about two years ago with comments from PhilRights. However, work on the manual was not pursued. The lead agency for this undertaking is the PNP Human Rights Office which, in turn, will convene a multi-sectoral review committee.
- Review of existing program of instructions or syllabi/curriculum of the AFP and PNP to ensure that HR-IHL are integrated therein. The review shall also include the existing culture in the military and police academies and other learning and training institutions of law enforcement agencies. The group believes that the school culture is a curriculum by itself. The lead agencies for this are J-8 of the AFP, the CHR and PhilRights.
- Review of the actual delivery of IHL curriculum in terms of content and methodologies with the J-8 of the AFP as lead agency.
- Holding of an "Academic Forum" among formal educational institutions at all levels (elementary, secondary and tertiary tentatively within September or October 2012. This activity is being proposed pursuant to the constitutional mandate⁴ on mandatory human rights education. The Forum aims to assess how far formal schools have gone with respect to HR-IHL, including cyber education.



- Monitoring of how teaching exemplars are being used by DepEd.
- Study on the degree of integration of HR-IHL in all levels of education and not only in ROTC as recommended in the 2009 IHL Summit.

On Media

- Mobilize government and private sector media network to sponsor/conduct tele-aralan and radio programs on HR-IHL. It is proposed to tap private entities through their corporate social responsibility (CSR) programs.

3 Facilitator: Dr. Ana Elzy Ofreneo. Group Members: Col. Ronan and Col Perez (AFP); (2 from PMS); (Joey Pinalas (PUP); Usec Severo Catura (PHRC); Dr. Nymia Simbulan (PhilRights); (Monitoring Committee); Epifania Garay and Dominik Calamba (CHR)

4 Article XIV, Sec 3 (2) of the Philippine Constitution provides that "All education institutions . . . shall inculcate patriotism and nationalism, foster love of humanity and respect for human rights ..."

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- The group further proposed to work on the inclusion of HR and IHL promotion in media advertisements.

On Accountability

- Review of laws to clarify the accountability of non-state actors.

On Resources

- All government agencies and CSOs, as well, should contribute financial and material resources for the education, information and communications work on IHL.

- The CHR and PHRC shall write to the PMS to request for budgetary support.

The presentation of the group report was followed by an open forum.

- Atty. Jake Mejia of CHR inquired if the group discussed Section 18 of the IHL law which provides "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." Director Ofreneo said the group was not able to consider it in the discussion.
- Director Aurora Parong of Amnesty International manifested that it was simply mentioned in the discussions of Group 2 that the PNP has initiated trainings for investigators but they did not elaborate on the matter. She suggested that this is the proper occasion for the PNP to share its experience.
- Chief Supt. Nestor Fajura of the PNP Human Rights Office, said that the PNP has Human Rights Desks in all police stations that receive complaints. They are being trained at this level to segregate various human rights complaints from violations of IHL. In relation to this, he said the PNP has a 45 day long criminal investigation



training course. The PNP incorporated in the course a week long actual training on IHL investigation which includes actual case studies on the preservation of the crime scene. Chief Supt. Fajura explained that this is very important because the PNP would be able to gather material evidence and identify the persons liable for the criminal acts committed and not just rely on testimonial evidences from witnesses, which are very difficult to gather because of fear and security considerations. He added that this would enhance the capability of the PNP to build-up and file cases especially against non-state actors who are more difficult to identify relative to state actors. The PNP has coordinated with the AFP for joint trainings on the said course.

- Dr. Parong (AI) and Atty. Mejia (CHR) pointed out that it is important to share the module of the PNP and other training modules from other agencies for purposes of developing a basic module that will benefit everyone. They said this will also help in developing more specific training courses, say for prosecutors, investigators and judges.
- Upon suggestion of Dr. Parong (AI) and Atty. Mejia (CHR), the PNP promised to share their criminal investigation module for violations of IHL.
- Col. Rhoderick M. Parayno of the Philippine Army Human Rights Office informed the body that the



Philippine Army is reviewing its TOI or syllabi on HR-IHL. He said this was triggered by General Bautista's visit with Chair Rosales at the CHR and they found out that there are discrepancies basically in the whole coverage of their training course, i.e., subjects included, scope and periods allotted. Col. Parayno said the Philippine Army has created a TWG which is now in the process of developing a standard TOI/syllabus. Upon completion, hopefully within a month, this will be brought to the CHR for validation. He added that they shall make a manual that will be part of the doctrine of the Philippine Army.

- Dir. Ofreneo (CHR) also informed the body that the CHR and DOJ have signed a memorandum





of agreement for the training of prosecutors on HR and IHL and that a TWG is already working on the modules. Upon completion, she said, this will be open for validation by other agencies and organizations. With respect to training for judges, Dir. Ofreneo suggested that the matter should be brought up with the PHILJA (Philippine Judges Academy) in view of Sec. 18 of the IHL Law. She said the CHR can write PHILJA.

- Dr. Simbulan (PhilRights) recommended a review of the Internal Peace and Security Plan of the AFP (Oplan Bayanihan) to make it consistent with HR-IHL.
- Rose Trajano of PAHRA said that the PAHRA, DOJ and CHR are also working on a training module on torture and medical evidence that may serve as a pattern for developing IHL training modules.
- Dir. Ofreneo apprised the body that there is a UN declaration on human rights education that was passed in December 2011. Pursuant to this, she said there is an ongoing world program on human rights education wherein the Philippines is included in the second phase which is focused on the security sector, tertiary education and civil servants.
- Capt. Ed Esquivas of the AFP Human Rights Office clarified that AFP-J8 is in-charge of the entire schooling and curriculum development of the AFP. He said the AFP Human Rights Office, in particular, has programs on HR advocacy and trainings and has developed a handbook on human rights aside from the basic and advanced HR courses of the AFP.
- Capt. Esquivas then inquired if the CHR and CSOs have HR education for the general public

aside from those being conducted by media. He said he is posing this question because he believes it is important, specially for people or communities in conflict areas like the IDPs (internally displaced persons). More specifically, he said the people must be educated that they can file complaints individually or as a group aside from the assistance that CSOs may provide for violations of RA 9851 (IHL). Capt. Esquivas cited the importance of educating the people at the community level specially in relation to Sec. 5 of the IHL law which defines acts under genocide "with intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group."

- In response to the query of Capt. Esquivas, Dir. Ofreneo said that human rights education is being undertaken at the community level by the Barangay Human Rights Action Officers (BHRAOs). However, she said there is a need to review and improve the content to include IHL.
- Dr. Jasmine Nario Galace of WeAct said that CSOs like Sulong CARHRIHL are also conducting education work on IHL, including RA 9851, at the community level in conflict areas.
- Based on the preceding discussion, Dr. Parong reiterated their suggestion to develop a module on IHL in general which would serve as basis for the development of specific modules for different end users like prosecutors, investigators and judges. She suggested further that the CHR take the lead for this undertaking. Dr. Parong added that the ICRC has a module already on IHL which may serve as basic reference so as not to reinvent the wheel. She said CSOs must submit their modules, too, to the CHR, citing the PCICC which has already been giving IHL trainings.

THEMATIC DISCUSSION 2

Work on Monitoring, Investigation and Prosecution⁵

Facilitator: Dr. Aurora Parong,
Amnesty International Executive Director
Rapporteur: Mr. Victor Caguimbal, PHRC

Mr. Caguimbal presented the group's discussion on issues relevant to the IHL as follows:

- Proper and effective investigation of CPP purges to bring about closure to victims, survivors and their families. One issue that stands out is the recovery of the remains (7 in Cebu and 2 in Zamboanga, total of nine remains, were identified through forensics among others), however, we are speaking of thousands of victims of the CPP purges
- Accountability of non-state armed groups
- The National Monitoring Mechanism (NMM) is not yet operational
- There are problematic areas in the provisions of, and access to the Witness Protection Program (WPP).
- Provisions of RA 9851 are not fully implemented specially Sec. 13 (Protection of Victims and Witnesses), Sec.14 (Reparations to Victims) and Sec. 18 (Philippine Court, Prosecutors and Investigators).
- authority. This is in view of the pending Anti-Enforced Disappearance bill that is limited to State agents (perpetrators)
- Constitute the National Monitoring Mechanism (NMM) in addressing the Extrajudicial Killings, Enforced Disappearance and Torture
- Review of the draft Terms of Reference (TOR) of the NMM
- Incorporate the issue of accountability of both State and NSA in relation to the principle of command responsibility
- Establish an Ad Hoc Committee that will address the investigation of IHL violations which will be composed by the CHR, DOJ, AFP, PNP and CSOs since the NMM functions only deals with HRV cases
- SC, DOJ, PNP and CHR shall draft guidelines on specific provisions of IHL Law particularly Sections 13, 14 and 18 within the year,
- Creation of DOJ task force on IHL

Group Recommendations

- Constitute a body similar to Truth Commission that is duly constituted by the State with the support of international partners. This is for purpose of bringing justice to the victims of CPP purges.
- Push for the accountability of non-state armed groups (NSAs) through legislation since the Anti-Torture Law limits the accountability of the torture perpetrators to State agents or agents of

5 Facilitator: Dr. Aurora Parong (AI), Members: Atty. Arpee Santiago- Ateneo Human Rights Center (AHRC), Mila Gaddi- Task Force Detainees of the Philippines (TFDP), Wilbert Mercado- Sulong CARHRIHL, Sister Arnold Manuel- BALAY Rehabilitation Center, Rebecca Lozada-Philippine Coalition International Criminal Court (PCICC), Jerbert M. Briola- Medical Action Group (MAG), Vic Caguimbal-Presidential Human Rights Committee (PHRC), Francis Bobby Garcia-PATH, Corazon Estojero- Families of Victims of Involuntary Disappearance (FIND), Rosemarie Trajano- Philippine Alliance of Human Rights Advocates (PAHRA), Judge Soliman Santos, Jr.-Judiciary, Col. Rhoderick M. Parayno- Philippines Army Human Rights Office, Col. Zosimo Jimenez Jr., PN- Philippines Navy Human Rights Office

- Review the implementation of Sec. 18, RA 9851 in terms of capacity building for judges, prosecutors, CHR investigators, members of the State security forces and law enforcement agencies
- Review of the present DOJ Witness Protection Program (WPP) and push for the strengthening of the WPP through legislation and increased budget allocation.

The presentation of the group report was followed by an open forum.

- Ms. Rose Trajano (PAHRA) asked if there have been IHL cases filed and how to file such cases. In relation to this, Mr. Garcia (DILG) also asked if IHL victims approach CSOs and what has been their experience on this.
- Sister Arnold (Balay Rehabilitation Center) said that victims seek assistance from them in filing cases but they cannot as an institution, in the case of Sulong CARHRIHL, file the case because it has to be done by the victims themselves. Sister Arnold lamented that many victims do not file cases because of fear and lamented that the witness protection program can hardly provide assistance to the victims because of budgetary constraints.
- Ms. Becky Lozada (PCICC) said they are now working on IHL legal trainings. She said it is important for CSOs to be trained in handling IHL cases considering that the PCICC and its member organizations are being approached for legal assistance by victims of IHL violations. For instance, she said they have been approached for assistance on CARHRIHL cases, Balay have cases of burning (torture), TFD has cases of torture and EJKs, and FIND has cases of involuntary disappearances, among others. Ms. Lozada emphasized the need for CSOs to work together with government agencies so that the limited resources would be optimized.
- Ms. Trajano said that PAHRA has two cases which they believe would qualify as IHL cases and they are currently working on these as test cases. She said the same cases are also being handled by the CHR. However, Ms. Trajano lamented that the investigation is taking too long and they are

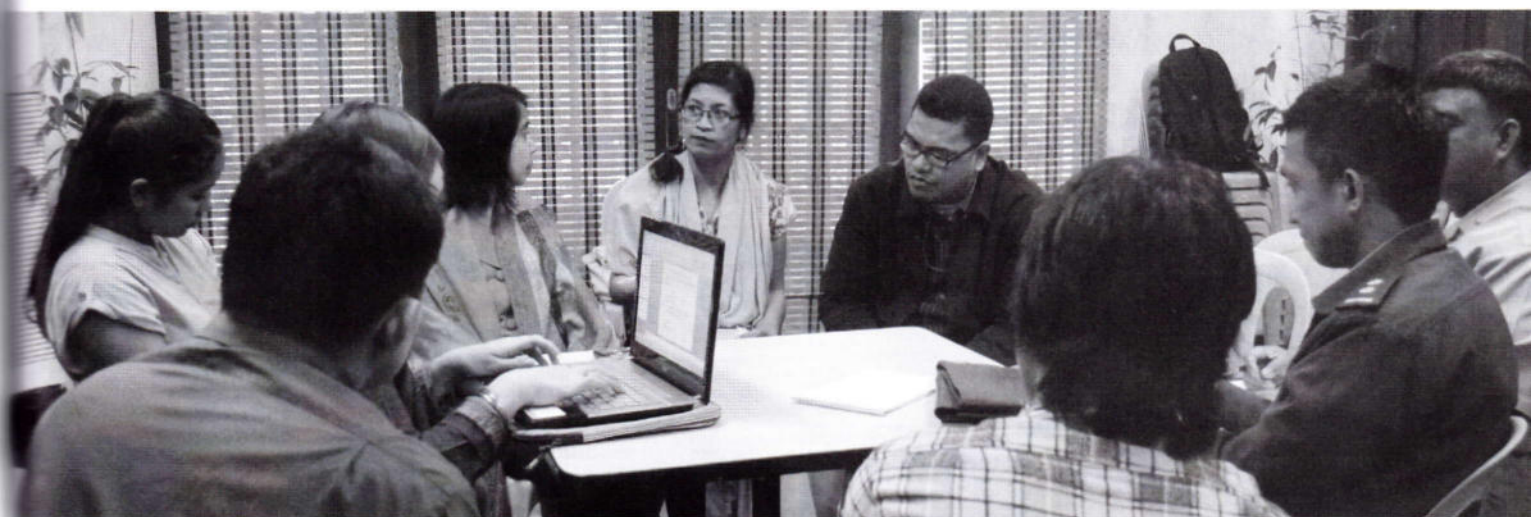


encountering difficulties in the process of such investigations such as the ballistic exams and the contamination of evidence. As such, she said there is a need to improve investigation techniques, systems and processes so as to ensure that the cases filed will prosper in court.

- The moderator manifested that in the break-out discussion of Group 2, some participants expressed that the difficulties in the monitoring, investigation and prosecution of cases stem from the non-implementation of Sec. 18 of RA 9851, i.e., the failure of some agencies to designate investigators, prosecutors and special courts for IHL. The moderator also echoed the sentiment of participants especially from the CSOs over the non-implementation of Section 13 (Witness Protection Program) and Section 14 (Reparations) of the same law which may be due to the non-implementation of Section 18. The moderator solicited the views of the concerned agencies over the matter.
- USec. Armamento of DOJ clarified that even if there are still no designated special prosecutors, cases of IHL may already be filed with the proper office of the prosecutor that has jurisdiction where the incidents happened. She said this can be done already considering that the criminal justice system is fully functional.
- Gen. Tutaan pointed out that the problem lies in the filing of cases where the victims or complainants fail to allege violations of IHL in their complaint. He said this may be due to the lack of education on the part of the victims and the law enforcement agencies. Given this situation, he said the AFP has launched a massive education on IHL within its ranks.
- Atty. Mejia expressed that there is no general knowledge on what the Supreme Court and the

DOJ has done with respect to Sec. 18 of RA 9851. She suggested that a communication should be transmitted to said agencies regarding the matter so that the concerned stakeholders from government and CSOs will be properly guided on what to do and where to go with respect to IHL cases. On the part of the CHR, Atty. Mejia said that the Commission has not yet designated and trained IHL investigators.

- Usec. Armamento clarified that the DOJ has not yet designated special prosecutors for IHL. Notwithstanding this, she reiterated that IHL cases can already be filed because our penal system is functioning. She said what is important is that the elements of IHL violations are indicated in the complaint, e.g., murder in relation to RA 9851, so that it would be appreciated by the prosecutor investigating the case.
- Sister Arnold expressed her concern that the CHR is not even sure with IHL (lacks training on IHL) because instead of filing cases on IHL, they will file it as torture wherein under the anti-torture law, the only responsible party is the state and not the non-state actors. Sister Arnold emphasized the need for a good training on IHL in the light of the situation. She said more case have been filed against state actors and very few against non-state actors because (the Commission) is more familiar with the anti-torture law.
- In support of the manifestation of USec. Armamento of DOJ, Col. Esquivas said that what is important in the rules of criminal procedure is the allegations contained in the complaint. He said RA 9851 does not prohibit the filing of IHL cases pending full compliance thereof, especially with respect to Section 18.
- Atty. Josefina Guzman of the Supreme Court also supported the statement of USec. Armamento noting that Regional Trial Courts have jurisdiction on IHL cases as provided under RA 9851. She agrees though that there should be designated special courts and that judges and prosecutors should have special trainings on IHL. She said she will take up with the Court Administrator the issues raised on Sec. 18.
- With respect to the comment of Brig. Gen. Tutaan that IHL violations are not alleged in some cases that are filed, Atty. Guzman (SC) said that the Court considers the principles and provisions under RA 9851 even without such allegations on violations of IHL. She cited two recent cases on applications for writ of amparo wherein the Supreme Court applied the doctrines under 9851.
- The moderator summed up the important issues raised during the preceding discussion. In a nutshell, the participants arrived at the following consensus:
 - There is an urgent need for the designation of investigators, prosecutors and special courts in accordance with Sec 18 of RA 9851.
 - There is an urgent need for special trainings on IHL for investigators, prosecutors and judges.
 - Cases for violation of IHL can be already filed with the proper courts pending the full implementation of Sec. 18 by the concerned government agencies. This may serve as an impetus for the immediate and full implementation of RA 9851.



THEMATIC DISCUSSION 3

Work on Humanitarian Intervention⁶

Facilitator: Dr. Jasmine Nario-Galace,
WeAct 1325 Coordinator
Rapporteur: Mr. Vaux Fajardo, PHRC

Mr. Fajardo presented the group's discussion and recommendations:

Environmental Scanning (What has been done on the ground?)

- DSWD
 - Social technology:
 - Guidelines of Various services to IDPs
 - Pilot in Region XII
 - Case management on evacuation centers
 - Guidelines (women; gender responsive)
 - Pantawid Pamilyang Pilipino Program
 - Education
 - Medical conditions
 - Kalahi center (livelihood)
 - PAMANA in partnership with OPAPP
- Sulong CARHRIHL
 - Monitoring and Action Response Program
 - Immediate assistance to victims (CARHRIHL violations)
 - Legal assistance
 - Does not file case but helps facilitate filing of cases (referral to partners, case conferencing)
 - Livelihood program
 - Kariton, Kalabaw, Sarisari store in Porac Pampanga for Aetas
- PHRC
 - Oversight to agencies
 - Facilitates assistance
 - Capacitates CSOs/NGOs
- Balay Rehabilitation Center
 - IDP Program based in Mindanao
 - Humanitarian Protection
 - Community protection DRR (school, barangay, municipal level)
 - Education on emergencies (school based)
 - Rido
 - Rehabilitation, students, teachers, psychosocial intervention
 - Management program in schools
 - IDP bill lobbying
 - Rehabilitation for torture victims
 - Assistance
 - Referral to partners
 - More on Psychosocial intervention and rehabilitation than relief
 - Aim: to help the community get back to the environment before the conflict
 - Community Humanitarian Protection Group
- Security Sector
 - Focused on serious collaboration
 - People-centered security approach
 - Paradigm shift
 - Advocate people empowerment
 - IPSP planning: inclusive of all sectors
 - Human rights violations decrease
 - Humanitarian collaboration/cooperation
 - Establishment of structures inside AFP on peace process and human rights
- WE ACT 1325
 - All women contingent for the IMT(MPC, Balay, etc.)
 - Pink, Akkapka assistance to victims
 - Nissa Ul-haq Legal services for women
 - PHILANCA, arms trade treaty campaign
 - Emergency relief assistance

⁶ Facilitator: Dr. Jasmin Nario-Galace-WeAct 1325; Members: Jerry Pinca-Balay Rehabilitation Center, LTC. Glenn Aynera-OJ3 AFP, LCDR Arnold Obra-OJ7 AFP, Edwin Pajares and Rowena Layugan-DSWD, Kaye Limpiado and Regina Mondez-Sulong CARHRIHL, Tito Fajardo-PHRC

Ways Forward: What needs to be done?

- Intensify government action and services
- Realization and serious implementation of provision of basic services in armed conflict areas
 - Complementation of work
- Post-traumatic stress management capacity of soldiers
 - Overworked soldiers (soldiers provide services beyond their mandate)
- Empower LGUs / NGAs
 - Disaster Risk plan of LGUs (evacuation)
 - Empowerment of LGUs in responding to the needs of armed conflict areas
- Intra dialogue in the security sector to fully implement the Bayanihan
- Encourage use of indigenous resources for rehabilitation and livelihood assistance
- Sustain and intensify livelihood efforts
- Collection of sex disaggregated data
 - Designation of duty bearers
- Develop Infrastructure to respond to needs of displaced persons
- Actively lobby for the passage of the IDP Bill
- Establish multisectoral monitor and response mechanism
- Expand monitoring and IDP protection networks
- Increase and strengthen delivery of health services
 - Systematize the documentation of medical abstracts
- Paralegal training in areas of armed conflict
- Enhance PNP's capacity in collection of data and evidence for future legal actions
- In the 65th IHL summit invite people from LGUs
- Review Anti-torture law to include NSAs
- Protection of Filipino peacekeepers in armed conflict areas
 - Extra protection measures

The presentation of the group was followed by an open forum.

- Brig. Gen. Tutaan manifested that the definition of arbitrary internal displacement under the proposed IDP law must be reviewed because the present definition puts the military in a quandary between ensuring peace and order and



being accused of violations of IHL. Gen. Tutaan expressed that soldiers are usually blamed when conflict occurs rather than the non-state actors who instigated or caused the conflict.

- Chief Supt. Fajura underscored the importance of the group's recommendation to *"Enhance PNP's capacity in the collection of data and evidence for future legal actions."* He explained that when there is armed conflict, what happens usually is that the evidences are already muddled or destroyed before the police arrive. The police are not present in the crime scene at all times or even immediately after armed confrontations between the state and opposing non-state actors. It is very difficult to gather testimonial evidences because the community folk fear for their lives. Thus there is a need to preserve material or physical evidences which can stand in court for the prosecution of crimes. In this light, Chief Supt. Fajura suggested, if it is possible, to train in the barangay level on crime scene protection until the police arrive. He said the role of barangay people is valuable in pursuing the IHL cases, for example by simply taking pictures.
- In reaction to the statement of Gen. Tutaan, Dr. Simbulan said that human rights NGOs conduct themselves in accordance to their mandate. She said the mandate of many human rights NGOs is to serve as watchdogs against possible state abuses. As such, they cannot be expected to make statements or monitor the conduct of non-state actors.

- Dr. Parong suggested that the people in the communities like the IDPs should also be represented in the IHL summit, not just the LGUs as recommended by the group. She said they should be given an active role in the resolution of problems affecting them.
- Dr. Parong also expressed her concern over the some military officers' perception of CSOs that give recommendations to non-state actors in the same breadth that they give recommendations or comments to state actors. She said at one time, the military questioned the AI when they gave some recommendations to the MILF. The military interpreted such an act as a recognition that the MILF has a belligerent status. Dr. Parong suggested that this is a matter that should also be discussed with the security sector.
- Mr. Max De Mesa of PAHRA manifested that we should also look into the history of the armed forces and the peoples' perception of the AFP. He said there were so many instances in the past when the military committed serious violations of human rights and these created a negative impression. Mr. De Mesa said that the military has to overcome this historical stigma and reform its attitude and views. He underscored the importance of discipline and strict adherence to the principles of human rights by the military as a crucial step forward in advancing human rights.



SYNTHESIS

Ms. Rebecca E. Lozada of PCICC

- Ms. Lozada said that the organizers will come up with the documentation of the RTD. The participants/concerned agencies may comment and add more information they deem important in the holding of the Second National Summit on IHL.
- All concerned agencies and organizations are encouraged to seriously consider the discussions and recommendations of the RTD in improving their work on IHL.
- Ms Lozada said the RTD started with a very good tone. She said the participants are coming from a different position compared to the First IHL Summit. And this can be credited to what the keynote speaker called a "strategic victory." This is mainly because we have a law, RA 9851, which was passed even before the ratification of the Rome Statute of the ICC. This means that our laws and procedures will be aligned with the international standards of IHL.
- From that keynote, Ms. Lozada said we worked towards the objectives of the RTD, which was to look at what we are doing now and reflect on how we are doing it, both good and bad. She said that based on our own admission, there is a consensus that a lot still has to be done towards the next IHL summit.
- Ms. Lozada emphasized at least three important controversial issues that were discussed. She said controversy here means that we can learn something from the debates in order to move forward.
- Ms Lozada narrated that one of the controversies is the paradigm shift of the AFP. Some are saying that the AFP has had a good paradigm shift while others think they need to revise the internal peace and security plan *Bayanihan*.
- Second is the issue of prosecution, that there is no prosecution. One side pointed out that there can be no prosecution if cases are not filed. The other side pointed out that cases can't be

filed if we, the courts and investigations are still not prepared. Both sides have merits and it's important to deepen this discussion.

- The third issue is the discussion on who resorts to the use of arms and the question of state and non-state actors. Ms. Lozada said all of us recognize that the right to resistance is a human right. With that, legitimate resistance is needed. But she interposed that it is not only a concern about war. She said we are here discussing IHL because there has to be limits in the conduct of war. She further added that Chairperson Etta Rosales herself said that it's not only about the rules of war, but how to make it possible for our country to avoid war by addressing social justice challenges.
- It is important for all stakeholders to work together to address these concerns and fulfill all recommendations discussed in the RTD. Ms. Lozada said the debates in the RTD reflect that the participants are in a healthy place to push IHL forward. In closing, she echoed the call of Judge Soliman Santos that we should work towards the next IHL summit "Faster, Higher, Stronger."



CLOSING REMARKS

Sister Maria Arnold Noel, SSPS

- Sister Arnold expressed her happiness with the lively and fruitful discussions on IHL. She said one of the best things that she saw about the group was that the ranks between civil society working for IHL and human Rights and the security sector has closed; the Berlin Wall that divided the two groups has fallen down. She said this is a very good effect of the RTD, that now we can work hand in hand as partners, as friends, and not as foes.
- Sister Arnold thanked the organizers, speakers, facilitators and participants who made the RTD possible. She said that this would not have been possible 40 years ago during martial law. Now we can go on working hand in hand, proud to be Filipinos.

RTD 2: FROM ACTION POINTS TO AN OPERATIONAL PLAN (Post-Summit)

March 20, 2013

Commission on Human Rights Commissioner Jose Manuel Mamauag welcomed participants to the post-summit RTD with an update of the work of the Commission on Human Rights, particularly the CHR guidelines being finalized.

Usec. Severo Catura of the Presidential Human Rights Committee spoke of the RTD as a continuum operationalizing the action points and recommendations of the pre-summit Roundtable Discussion of August 2012 and the Second National IHL Summit in December 2012.

The main points of discussion focused on the following:

- The need for a mechanism to identify who will tie up the efforts and what we are going to do in the next three years leading up to the Third Summit.
- With the mandate coming from the Summit, a core group/tripartite or technical working group (TWG) was formed with the Presidential Human Rights Committee (PHRC), Commission on Human Rights (CHR), Philippine Coalition for the International Criminal Court (PCICC), and the Civil Society Initiatives for International Humanitarian Law (CSI-IHL).

The Philippine National Red Cross, Medical Action Group and other agencies and organizations will be invited to the TWG or will take charge of specific action points. The main convenor is the PHRC. The main task of the core group is the operationalization of the action points.

The plenary discussion (Thematic Discussion 1) Education, Information, Communications on IHL included the need to review and assess existing IEC materials; specially the IHL graduated curriculum; the need to integrate IHL into all levels



of education; a possible dialogue with curricula writers and with the education department; the development of a manual for prosecutors; the development of a manual for specific/target sectors be the last quarter of the first year, and; the development of a “mother manual” or standard curriculum where the interpretations of IHL are established before we go to specific sectors.

On (Thematic Discussion 2) Work on Monitoring, Investigation and Prosecution, the discussions included the role of other court systems, such as the indigenous peoples’ system and Sharia; and the expertise needed by investigators and prosecutors.

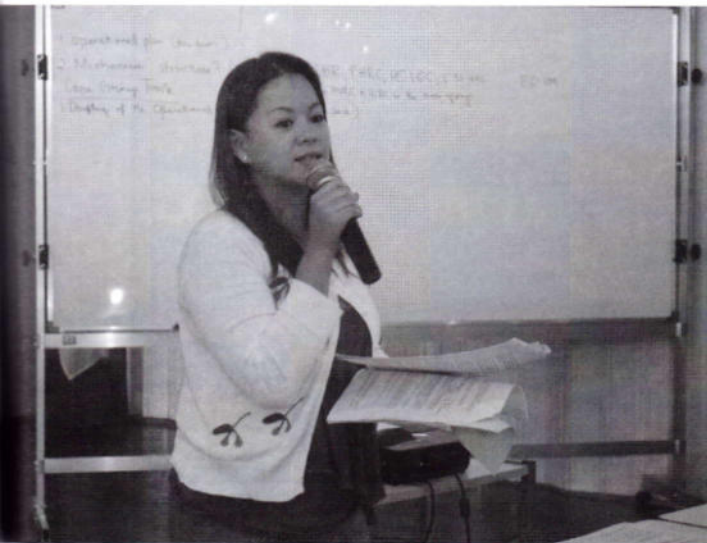
It was agreed that: cases with the CHR will be further studied and case conferences will be held; a meeting will be set with the Department of Justice on the processes of reporting and prosecution of cases, specially cases brought forward at the Summit such as the Capion case and on the creation/designation of the courts to hear IHL cases; and a dialogue will be scheduled with the Supreme Court, Philippine National Police and other justice actors; that training of prosecutors and medical people will be ensured; templates for reporting violations and a good database will be strengthened/ created that will allow for exchanges and counter-validation of data; and that TWG may act as an incident review

committee while an IHL database is being built. The CHR's legal investigation team is committed to work out a template.

Witness protection was a special concern. There is a MOA between CHR and DOJ, both with a existing witness protection program. CHR's Dr. Basas made the request for CSOs to help find sanctuaries. There was a suggestion to look into the impact of the CHR and DOJ MOA and other aspects of the program, and for an RTD to form a legislative agenda that will improve the present system.

On case build up, current cases cannot be discussed in the RTD, but those present also brought up other cases that needs to be studied for possible prosecution. The core group/ TWG will review the cases further with the CHR taking the lead in the review.

On (Thematic Discussion 3) Humanitarian Intervention, the discussion centered on the need for a structure to implement the IHL action points and agenda defined by the Second National



Summit. There was agreement for the TWG to stand as the IHL National Committee while the government is still working for the creation of a national committee. Civil society organizations noted the bad break up of the previous committee and presented a resolution for a national committee where all stakeholders can work together. (See Annex A) The resolution will be considered further by the TWG.

It was noted that there is a need to formalize the work of the TWG through an Executive Order and see how this will relate to EO 134.

On psychosocial trauma work, best practices should be shared and LGUs tapped to be more active in addressing IHL cases.

On budgetary needs, each organization in the core group have resources to contribute to the operational plan's implementation. It was also noted that the EO 134 committee has a budget for IHL commemorations that can go to the action points identified. In addition, funds can also be generated for specific projects.

The following matrix shows the issues and priority areas of work. This initial operational plan was agreed upon.

OPERATIONAL PLAN 2013 - 2014
FROM THE 2nd IHL NATIONAL SUMMIT

EDUCATION, INFORMATION AND COMMUNICATION

Priority Issues/ Concerns	Activities	Time-frame	Point Person, Agency Organization	Indicators
1. Development, finalization and adoption of a standard IHL curriculum. Adaptation of this curriculum for client specific IHL manuals namely: a. Communities (Barangay) b. Security Sector (Precincts, Detachments, Peace and Development Teams) c. Prosecutors and Judges	- Development of a standard IHL manual - Review and assessment of existing AFP and PNP curriculum to ensure IHL integration - Review of the integration of IHL in ROTC - Review and assessment of PhilJa's curriculum for IHL education - Development of IEC materials for education	Targets for first year include piloting of a standard curriculum	IHLWG Composition: CHR (facilitator) PHRC PCICC CSI-IHL	- Launching of the Standard and Enhanced Manual on IHL Education - Documentation of the results of reviews and assessments of existing curriculum/ manuals - Finalization of "Client-Specific" Manuals on IHL Education
2. Development of a communication plan for tri-media and social media	- Drafting of the communication plan including the development of IEC materials (e.g. primers/comic strips) - Implementation of the communication plan including the following: -maximization of government network stations -development of dedicated internet/social media sites - Review of the impact of the communication plan	Whole year, highlight on IHL month, August, and HR week	IHLTWG (PHRC)/ PCOO	
3. Integration of IHL in all levels of education	- Review teaching exemplars and curriculum on peace and human rights to include IHL - Close coordination with the appropriate agencies to ensure that IHL education is integrated in the curriculum - Redevelopment of peace, human rights and IHL, including pilot testing of said curriculum (priority: conflict-affected areas).		IHLTWG (CSI-IHL)	Curriculum on IHL

MONITORING, INVESTIGATION AND PROSECUTION

Priority Issues/ Concerns	Activities	Time-frame	Point Person, Agency Organization	Indicators
1. Training/ designation of prosecutors/ investigators who will handle cases of violations of IHL law	• Dialogue/meeting with DOJ, SC and PNP on the creation of special courts on HR and IHL in Regions 2, 5, 8, 9, 12 and ARMM. • Development of a module on IHL training for investigators and prosecutors • Development of a module on IHL /RA 9851 training for judges • IHL training for investigators and prosecutors		IHLTWG (PHRC and ICRC)	• Documented results of dialogue on creation of special courts • Finalized modules on training for judges, investigators and prosecutors.
2. Development of data and information clearinghouse and mechanism for case preparation and build-up	• Review of existing templates used in documentation • Creation of a standard procedure in documenting IHL cases • Creation of a standard data collection and database on IHL violations • Creation of a mechanism to ensure case-build up from filing to prosecution		IHL TWG (CHR c/o the office of Commissioner Mamauag)	• Finalization of templates on: -documentation of IHL cases -procedures on how to use documentation for filing and prosecution of IHL cases • Centralized database • Mechanism for sharing and validating of IHL cases
3. Enhancement of the Witness Protection Program	• Assessment of the impact of the MOA between DOJ and CHR on Witness Protection Program and to Monitor compliance • Launching of an RTD to look into the Existing Witness Protection Program Mechanism and make concrete recommendations for lobby work at the next Congress • Lobby Work		IHL TWG (CHR)	• Finalization of the recommendations for improvement of the WPA and inclusion in the legislative agenda and lobby work
4. Case build-up on identified IHL cases	• Case Conferences– meetings to work on the identified cases		IHL TWG (PHRC and CHR)	Note: Very vague • Cases progressing towards justice
5. Capacity building of forensic experts & medical doctors on IHL	• Discussions on plan for capacity building		IHL TWG (CHR to convene) PNP, DOH & MAG	

HUMANITARIAN INTERVENTION

Priority Issues/ Concerns	Activities	Time-frame	Point Person, Agency Organization	Indicators
1. Setting up a structure of IHL national convergence	• IHL TWG as the IHL National Committee • Improve the resolution drafted by CSI-IHL by including the roles and functions of NGAs and CSOs • Submit the resolution drafted by CSI-IHL to the CHR for consideration in drafting an EO		IHL TWG (PHRC)	• Memo to the President on the Recommended IHL National Agenda and Structure
2. Develop and enhance post traumatic stress management and rehabilitation for the security sector	• Sharing of experiences and methods on psychosocial rehabilitation • Discussions/meetings on post traumatic stress management and rehabilitation		IHL TWG (AFP-HRO)	• Forum
3. Build the capacity of LGUS and NGAs to effectively respond to needs of people in conflict-affected areas	• Clarification on the role of LGUs in armed conflict situations, through the DILG and as stipulated by different laws (9851, IDP law, etc.) • Strengthen LGU's Peace and Order Councils and other organizations that can respond to IHL cases • Inform LGUs up to the barangay level about the celebratory dates that they can include in their local plans		IHL TWG (PHRC)	• Circulars and Memos

RTD 3: ROUNDTABLE DISCUSSION FOR CHR REGIONAL DIRECTORS (Post-Summit)

Ciudad Christhia Resort & Hotel, Ampid, San Mateo, Rizal
June 6-7, 2013

Objectives

The Round Table Discussion on IHL for CHR Regional Directors achieved the following objectives:

1. Regional trends on IHL compliance (IHL Situation and Challenges).
2. IHL cases, trends and analysis
3. Inputs to the Operations Plan on IHL
4. Mechanism/structure to ensure the implementation of the Operations Plan

Participants

The 3rd Round Table Discussion on International Humanitarian Law for CHR Regional Directors was represented by fifteen (15) participants as follows:

Region	Name of Representatives	Designation
1	Atty. Rommel P. Dagumol	Officer-in-Charge
2	Atty. Jimmy P. Baliga	HR Regional Director
3	Atty. Mabelyn Palucboc	Atty. IV
4	Atty. Dante Santiago M. Rito	Atty. IV
5	Atty. Arlene Alangco	Atty. V, Naga Sub Office
6	Atty. Jonnie L. Dabuco	Atty. V
7	(Not represented)	
8	SI Edgar B. Fernandez	Special Investigator IV
9	Atty. Judelyn Macapili	Atty. IV
10	Atty. Jeanne Ivy F. Abrina	HR Regional Director

11	Atty. Edmundo Albay	Atty. V, Officer-in-Charge
12	Atty. Christine T. Haw-tay Jovero	HR Regional Director
NCR	Atty. Gilbert Boiser	HR Regional Director
	SI Bayani Arago	Special Investigator IV
CAR	SI Bienvenido L. Reano	Special Investigator III
CARAGA	SI Russell R. Valeroso	Special Investigator

Highlights of Proceedings

The RTD proper started with a discussion of the basics of International Humanitarian Law by a legal adviser from ICRC, Atty. Evecar Cruz-Ferrer. This was the participants’ consensus in order to have a common ground in the discussion of IHL.

The session provided the participants with knowledge on: What is IHL; When does IHL apply; Who does IHL protect; How does IHL protect; The sources of IHL- the conventions, treaties and agreements as well as the customary law.

Atty Evecar also discussed the historical background of ICRC “The Battle of Solferino”, which was witnessed by a Swiss merchant named Henry Dunnant who wrote this book which mobilized countries to join the movement which advocated that even in wars there must be rules. She also briefly discussed IHL related treaties and conventions the Philippines has ratified with emphasis to RA 9851 regarding the prosecution of cases against the enemies of the state which is provided in the law.

REGIONAL TRENDS ON IHL COMPLIANCE (IHL Situation and Challenges)

by CHR Regional Directors & representatives

REGION IV-A AND IV-B

Presenter: Atty. Dante Santiago M. Rito

Regional Trends in IHL:

Based on the reported complaints of CAHRIHL violations filed before the joint Monitoring Committee, there is a total of 516 IHL cases in Region IV-A from 2001 to 2002. There is a total of 132 IHL cases in Region IV-B from 2001 to 2012. Of the total number of IHL cases in Region IV-A & IV-B, to date, 7 cases have been verified to have been investigated by the region.

Of the total number of IHL cases in Region IV-A, to date, 50 cases have been verified to have been investigated by the Region. Of the total number of IHL cases in Region IV-B, to date, 25 cases have been verified to have been investigated by the Region. Note however, that said figures are only cases pertaining to those taken cognizance and investigated from the years 2011-2012. Currently, the Regional Office is still verifying those cases taken cognizance and investigated from 2001-2010.

Analysis and Observations:

Of those cases verified thus far to have been investigated in Region IV-A, 3 were recommended for filing and monitoring; 11 were closed/dismissed or terminated; and 4 were archived.

Of those cases verified thus far to have been investigated in Region IV-B, 4 were recommended for filing and monitoring; 9 were closed/dismissed or terminated; and 6 were archived. The numbers would indicate a high incidence of IHL related cases in the Timog Katagalugan area. This may be attributed to the active presence of the CPP-



NPA in the region during the previous years thus accounting for the presence of the military. Majority of the complaints centered on violations to the right to life, liberty and security of persons including their property.

Trends in terms of Human Rights Violations

There are 50 human rights violations on right to life (arbitrary deprivation of life; extra judicial killing, murder/homicide, massacre, and summary execution); 4 cases of enforced disappearance and 10 incidents of unlawful arrest. Other HRVs are: threat, intimidation and harassment, torture, inhumane and cruel treatment, dispersal, denial of medical treatment, desecration, physical injuries, illegal search and child rights violation.

Trends in terms of Alleged Perpetrators

The alleged perpetrators are as follows: 18 NPAs, 20 unidentified, 1 civilian and 34 from the Security Forces (AFP, PNP, CAFGU)

Issues Raised/Comments:

1. Becky: Ano yong pinakamalaking case ng IHL o grave case, na pinaka serious case na nireport sa inyong region?

Answer: Halimbawa po may namatay dahil sa encounter between military and NPAs, pagkatapos po ng may namatay, the family of victims go to our office to file a case.

2. Comm. Maning: Sa Region 4, there is this big case between Bicol and Quezon, in Atimonan, Quezon I think. There was a massacre in one barangay. There were barangay residents killed by military. Saabi ng military naman they are legitimate operations. Other affiliated NGOs came to our office. That's the time we gave order to Region 4 to investigate the case.

3. Atty. Flora: Considering that there is already RA 9851, dapat ang gagawin na natin ay hihimayain na natin ano talaga yong cases na nag-fall under RA 9851. Gagamitin natin yon at we are coming up with a matrix and a manual on the investigation of IHL cases. We will be coordinating with CHR regional offices.

4. Becky: I am interested in the Enforced Disappearance cases kasi, ano ang status ng case, may natagpuan bang patay, still missing or may lumitaw bang buhay?
Answer: As I was saying, our report is just a summary and we did not include the details of cases kasi matatagalan. But I have list of cases. (Comm Maning instructed Atty Rito to submit the list of those cases to the IHL-TWG).

REGION X

Presenter: Atty. Jeanne Ivy F. Abrina,
Regional Director

Peace and Order Situation:

CHR Region 10 has docketed cases on:

- NPA encounters at Kalabugao, Impasug-ong, Bukidnon;
- burning of banana delivery trucks in Quezon, Bukidnon; This has been said to be a retaliatory act by the NPA;
- synchronized attacks and looting in Manolo Fortich (Del Monte packing houses, the town plaza and cooperatives.

- Ambush of Mayor Ruth L. Guingona and party
- Displacement of 40 families for one day caused by the pursuit operations conducted by elements of the AFP

Spill-over of conflict

- Conflicts in Marawi and Lanao del Sura areas affect the situation in Lanao del Norte and Iligan, as well as Misamis Oriental and Cagayan de Oro City.
- The downfall of the multi-billion peso pyramiding financial scheme caused security tensions in Cagayan de Oro City. By disguise, it provided a flex of security readiness of Cagayan de Oro and Misamis Oriental. Among the major players, quite a number are living in Cagayan de Oro City and Iligan City;

Positive Developments

- Commander Bravo- Abdullah Macapaar of the MILF-BIAF Bangsamoro Islamic Armed Forces who is in control of troopers along the lines of Misamis Oriental, Bukidnon and Lanao areas has recently expressed support for the Framework Agreement, has called for giving Peace a Chance and looks forward to the signing of the final agreement. This is a hope for the North-Western Mindanao areas.
- Retrieval of the undetonated munitions at Nunungan, Poona, Piagapo by the 15IB PA, thru the intervention of Community Based Protection Monitor (CBPM) of CHR-10;
- Joined a multi-stakeholders forum spearheaded by Municipal Peace and Order Council of Munai, Lanao del Norte; and, witnessed the signing of the Memorandum of Agreement between the AFP/PNP Lanao del Norte and LGU to implement the anti-illegal logging order of President Aquino.



REGION XII

Presenter: Atty. Christina T. Hawtay-Jovero
Officer-in-Charge, Regional Human Rights Director

Types of Prevalent Armed Conflicts

- Government Forces versus the Communist Party of the Philippines/New People's Army (CPP-NPA)
- Government Forces versus the Moro-Islamic Liberation Front-Bangsamoro Islamic Armed Forces (MILF-BIAF)
- Government Forces versus the Moro National Liberation Front (MNLF)
- Government Forces versus the Bangsamoro Islamic Freedom Movement Bangsamoro Islamic Freedom Fighter (BIFM/BIFF);
- MNLF vs. MILF vs. BIFF/BIFM
- "Ridos" or Clan Wars

Regional Trends on IHL Compliance

- Communist Party of the Philippines/New People's Army (CPP-NPA) - in a letter to the Coalition for Peace dated 11 April 1988, declared its adherence to the Provisions of Protocol II.
- Moro Islamic Liberation Front-Bangsamoro Islamic Armed Forces (MILF-BIAF) - its Agreement with the Government of the Republic of the Philippines on Peace dated 22 June 2011, at Tripoli Libya, declares "x observance of international humanitarian law and respect for internationally recognized human rights instruments and the protection of evacuees and displaced persons."
- Moro National Liberation Front (MNLF) - on May 12, 1992, provided the International Committee of the Red Cross (ICRC) with a

unilateral declaration of intent to abide by humanitarian law.

- Most of the alleged violation of the IHL precepts were committed by Government Forces. Records show that 6 out of the 10 cases from 2008 to March 2012 were suspected to be committed by Government troops, particularly the AFP.
- Likewise glaring are the violations committed by the CPP/NPA/NDF despite their unilateral adherence to the rules of international humanitarian law.
- And so with the MILF/BIAF, however, in several instances, they tagged it to the so-called "rogue" elements.
- Despite the Peace Agreement and the Organic Act establishing the ARMM, MNLF Forces still engage in armed encounters with the AFP and also with MILF/BIAF.
- With the on-going peace process, armed conflicts between the Government and the MILF/BIAF substantially decreased, and armed encounters are readily addressed to the agreed established mechanism such as the IMT, CCCH, etc.
- In quite a number of instances, triggered by "rido" or clan war, MILF/BIAF clashed with MILF;
- Likewise triggered by "rido", there are incidences where based commanders of the MILF/BIAF clashed among themselves resulting to damage in properties, infrastructures and internal displacements
- With the advent RA 9851, there is a need for the CHR to review its operations to strengthen its protection and monitoring services specially at the ground level.
- CHR should take advantage of the services of well capacitated BHRAOs acting as "community humanitarian protection monitors" in conflict affected and high risk areas.



Region 12 IHL CASES

Period Covered: 2008 to March 2012

Title of the Case	Date of the incident	Brief Summary of the Case	Action Taken by the Regional Office	Status of the Case
Banca Bombing in Datu Piang, Maguindanao	Sept. 8, 2008	This incident happened during the height of armed conflict between the government Military Forces and the members of the MILF. Military planes were on reconnaissance and allegedly spotted two motorized bancas that become objects of an airstrike. Unfortunately, the bancas were not the two claimed by the military but only one with the Manunggal family on board. Killed instantly were the father, his pregnant daughter and his four (4) other minor children. Only one (1) minor survived.	The CHR XII conducted their fact finding and investigation in the area.	Resolved and closed for lack of interest of the victim's family to pursue filing of the case. The victims were extended financial assistance by the CHR Central Office
Arson/ Burning of houses, properties and other personal belongings.	May 7, 2009	At around 4:00 pm, May 7, 2009, the IDPs of the nearby evacuation center, at Talayan, Maguindanao, noticed thick smoke coming from Barangay Nunangen, Maguindanao. The IDPs learned that their houses and belongings were burned and damaged. There were 136 burned and 47 partially damaged houses and properties. According to information almost 99% of civilian homes were razed to the ground. Some families were affected by the military operations.	CHR XII conducted fact finding investigation believes that the setting of fire to the houses of the victims/ complainants are gross violations of HR as regards their economic, social and cultural rights finding bases in IHL. The civilians living in the area where there was ongoing armed conflict are considered protected persons.	Resolved for archived
Maiming of children in Magpet, North Cotabato	July 16, 2012	The minor victim is from Barangay Basak Magpet, North Cotabato. On July 16, 2012, about 10:00 am at Sitio Paraiso, Barangay Basak, the victim was allegedly held, maimed, blindfolded, threatened and accused of being a rebel by five (5) military soldiers identified by the victim himself to be elements of the Philippine Army	The affidavit of minor victim was taken including other material evidence	Still under investigation.
Use of Minor in Surallah, South Cotabato	July 19, 2012	Alleged use of a minor as guide in combat operations at Sitio Lambosong, Barangay Moloy, Surallah, South Cotabato.	Validation of the report established that it was actually the NPA rebel who borrowed and used an infant to be able to pass through the crowd, after which said baby was returned to the mother	For final investigation report
Hamletting in Magpet, North Cotabato	July 16, 2012	The military ordered the residents not to leave their houses for they might be mistaken as NPAs, they were held for two (2) days.	Field investigation and documentation	Under investigation

Title of the Case	Date of the incident	Brief Summary of the Case	Action Taken by the Regional Office	Status of the Case
Bombing in Tacurong City	May 8, 2011	An explosion happened in the vicinity of Jaicho Barbershop and Billard Hall. The explosion ripped through tricycle terminal near a market in Tacurong City at 4:30pm. The bomb was believed to be an improvised explosive device from alleged MILF Rogue	Investigation revealed that Sultan Kudarat PPO led by OIC Supt Teng M. Tocdo has filed multiple murder frustrated murder cases.	A case has been filed docketed as 1.5 No. 1199 PP vs. Taya Kulat, Peter Doe & John Does dated May 24, 2007 (Resolved)
Violation of IHL	Nov. 16, 2008	Mr. Severino Berongoy is a resident of Amabel, Magpet, Cotabato. Military Forces forced Mr. Berongoy to reveal location of NPA Camp despite repeated begging to spare him because he has children who are still dependent on him, he has been tortured and used as guide in going to Crossing Salingsing, Magpet, Cotabato.	Field investigation and documentation were conducted. Audience with the Sanguniang Bayan of Magpet. Coordination for dialogue with Magpet Vice Mayor, Minicipal Councilors and Barangay Chairman of Amabel, Magpet, Cotabato. Schedule a meeting with the victim	Resolved the case Recommended dropped and closed due to non-appearance of the victim amounting to lack of interest.
Bombing incidents	June 15, 2009 in Mahad Evacuation center, Brgy. Libutan Mamasaparo, Maguindanao	A bombing incident resulted in the wounding of four (4) civilians identified as Paaidsa Kahar. Said Abas, Abdul-bayan, Tunaji and Kagi Sapia Sipal. They were hospitalized at Cotabato Regional and Medical Center, Cotabato City. The alleged perpetrators were members of the 6th ID PA assigned in Datu Odin, Sinsuat, Maguindanao	Team of CHR XII investigators had conducted investigation on t said incident. They interviewed some of the victims, confined in the hospital who said that the bombing incident was perpetrated by elements of the 6th ID, PA because the splinters found in the area had a print of 105 Howitzer which only	This case was included lin the list of Resolved for Archived cases
Bombing incidents	June 29, 2012 in Brgy. Kitango, Datu Piang, Maguindanao	The alleged bombing incident in Brgy. Kitango, Datu Piang, Maguindanao resulted in the instant death of two civilians identified as Tong Hadji Omar and Malempenek Nonokan. It has also resulted in the wounding of 16 others who were hospitalized in Maguindanao Provincial Hospital and Cotabato City Regional and Medical Center.	CHR XII investigators went to the area where the incident took place. Some ot the residents who refused to be named narrated that three (3) nights before the explosion, they observed a single motorcycle roaming around the area. They suspected that it was used to plant the explosive device. Some of the informants said military men were responsible for the incident. However, military sources informed this office that the suspects were members of the MILF. The MILF denied the allegation.	

Title of the Case	Date of the incident	Brief Summary of the Case	Action Taken by the Regional Office	Status of the Case
Complaint of the residents of Maasim, Kiamba and Maitum, Saranggani Province	Oct. 7, 2008	A firefight between elements of 25th IB, PA and some-in Kiamba, Saranggani Province resulted in the wounding of Abdul A. Watamama. His two companions identified as Akmad Uyag and Nasser Bansil were arrested on the following day and a case of Illegal Possession of Firearms was filed against them.	Investigative monitoring was undertaken by this Office. There was a letter request and follow up letters sent to the PNP Provincial Office in Saranggani Province requesting the updates of the case. Investigation and documentation revealed that the arrest and filing of a case against the victims were properly done.	Resolved closed and terminated.
Killing of Capion family in Aleong, Kiblawan and alleged militarization of Bong Mal area. Use of military personnel in the conduct of law enforcement function.	Oct. 2012	While in pursuit of Daguil Capion, his wife and two minor sons were allegedly caught dead in crossfire and the two minor girls were wounded	Investigation on the alleged killing was conducted . Autopsy was also conducted; Continuous dialogue with the community and military was also conducted. On going court marshall proceedings	
Killing of Commander Ibon by NPA members in Magpet, North Cotabato	2012	He was tortured and killed in front of his family	For monitoring	Already in court.



ISLAND RESPONSES TO THEMATIC ISSUES (Luzon, Visayas & Mindanao)

Response to Thematic Issues on Work on Education,
Information and Communication

Priority Issues/ Concerns	Action/s to be Taken	Timeframe	Point Person/ Office/Agency	Indicator/s
<u>Luzon</u> IHL Education for High School and College	Integration of IHL in ROTC and NSTP Curriculum for College and CAT for High School thru MOU/MOA	CHR, DepEd and CHED CHR		
Development of education and training materials on IHL	Develop: - modules; - IEC materials; and - communication plan on IHL Training for BHRAOs on IHL			
<u>Visayas</u> Develop IHL communication plan for tri-media and social media	Drafting of IHL communication plan Approval of IHL communication plan Implementation of communication plan	June to Aug. '13 Sept. to Oct. '13 Nov. '13 onwards	Regional Information Officer III	Draft IHL communication plan Approved IHL communication plan Reports from regional offices
Lack of knowledge on IHL by CHR personnel	Training of CHR personnel on IHL	Nov. '13	ERO	Number of CHR personnel trained
Lack of knowledge on IHL by stakeholders	Conduct training/seminar for PNP, AFP and other stakeholders	Oct. to Dec. '13	ERO	Number of trainings conducted and participants trained
<u>Mindanao</u> Integration of IHL Education in all levels of education	Coordination, recruitment, capacity-building of HR-IHL Educators and Monitors	2014 (C/o regional offices)	HR Regional Directors and Information Officer III	

Response to Thematic Issues on Work on Monitoring, Investigation and Prosecution

Priority Issues/ Concerns	Action/s to be Taken	Timeframe	Point Person/ Office/Agency	Indicator/s
<u>Luzon</u> Monitoring Investigation and Prosecution of IHL cases	Witness protection program Case conferencing between CHR and the prosecutors office for IHL case build-up Training/Capacity Building for CHR Special Investigators and Lawyers on IHL		CHR & DOJ ERO & LIO	
<u>Visayas</u> Lack of skills in monitoring and investigating IHL cases	Training of CHR personnel on monitoring and investigation	Feb. 2014	ERO & LIO	Number of CHR personnel trained
Lack of equipment in investigation and monitoring of IHL cases	Procurement of IT Equipment	July 2013	ISMO	IT equipment procured
<u>Mindanao</u> Training and designation of investigators who will handle IHL violations	Training of Trainors on IHL Cascading of IHL at the regional offices	2013 (C/o Central Office)	LIO Regional HR Directors & Information Officer III	
Development of data and information clearing house and case build-up mechanism	MOU with DOJ Cascading of IHL at regional offices	2013 (c/o Central Office)	LIO Regional HR Directors and Atty. V	Template on IHL documentation and MOU

Thematic Issues on Humanitarian Intervention

Priority Issues/ Concerns	Action/s to be Taken	Timeframe	Point Person/ Office/Agency	Indicator/s
<u>Luzon</u> Internal Displacement	Lobby for the passage of Internally Displaced		CHR	
<u>Visayas</u>				
<u>Mindanao</u> Build the capacity of LGUs and NGAs to effectively respond to IHL in conflict affected areas	Coordination, capacity- building and monitoring	2014 (c/o Regional Offices)	Regional HR Directors & Information Officer III	
Internal Displacement	Coordination, capacity- building & monitoring of priority areas affected by armed conflict and chronic displacement	2014 (c/o regional offices)	Regional HR Director & Information Officer III	

REGIONAL OPERATIONS PLANS AND MECHANISMS ON IHL

REGIONAL PLANS & PROGRAMS	ACTIVITIES	KEY ACTORS	EXPECTED OUTPUT
Region 1			
Advocacy	- Continued education campaign for security forces - Trainors Training on IHL	CHR, AFP, PNP CHR Employees	
Investigation	- Conduct educational forum on IHL - Establishment, designation of regional focal point on IHL - Investigation and filing of IHL cases in Court	Regional focal person	
Region 2			
Addressing IHL issues and complaints	- Documentation, investigation and filing of complaints on violation of IHL - Prosecution and sharing of evidence on violations of IHL - Provision of information to victims and their communities on their rights and the protection of victims and witnesses	CHR, DOJ, PNP, AFP, CSO, CPP/ NDF MEDIA & COMMUNITIES	- Prompt documentation, investigation and redress of IHL violations - Access to justice for victims of IHL violations - Community/society involvement thru public awareness and participation
Policy formulation through inter-agency approach	- Joint policy formulation on the limitation of the methods and means of warfare - Policy internalization on the enhancement of access to all humanitarian assistance in armed conflict - Domestic legislation of the following: - Internal displacement - Rehabilitation, reparation and assistance for the victims and their families - Inter-agency rules in documenting, investigating and addressing issues on violation of IHL - Policy on prompt criminal and administrative investigation and prosecution of IHL cases		- Passage of laws and or agreements delimiting the use of weapons of mass destruction and means of warfare - Codification of inter-agency rules in providing assistance of IDP's and IHL victims and their families
Training and Advocacy	- Formulation of educational and instructional tools/kits for the AFP/ PNP in the vernaculars. - Publication of the IHL Law in comics using the vernacular language for easy understanding to be circulated in schools, offices, community and the ranks of the CPP		- Public awareness and understanding of the IHL to include children and out of school youth in rural and agricultural places. - Public awareness on hel-lines and remedies available to victims and their witnesses

REGIONAL PLANS & PROGRAMS	ACTIVITIES	KEY ACTORS	EXPECTED OUTPUT
Region 3			
Advocacy	- Awareness raising on IHL to the communities - Awareness raising on IHL and conduct dialogues between military and communities		
Capacity building	Capacitate BHRAOs to become effective IHL monitors		
Region 4			
Education	Continued education campaign for the AFP and PNP on IHL		
Protection	- Investigation of IHL cases - Establishment of Quick Reaction Team (QRT) to meet urgent IHL cases		
Monitoring	- Filing and monitoring of IHL cases in Court - Visitation of those jailed persons due to violation of IHL		
Region 5			
	- Enhance and improve the investigation of IHL cases; - Conduct seminars and lectures to members of AFP, PNP and other local stakeholders; - Monitor IHL cases thru the help of tri-media.		- Designate focal persons on the investigation of IHL cases - Assign focal persons to attend lectures, trainings and seminars on IHL to enhance their knowledge
Naga Sub-office	- The Naga Sub-office is working closely with members of the Philippine Army, to ensure that their men are well-equipped with the knowledge on IHL before they are sent out to the field, to diminish, if not totally eliminate HRVs - Regular seminar on IHL and HRV are undertaken by Candidate soldiers and CAFGU candidates before they can graduate from the course - Regular soldiers due for reactivation also undergo IHL and HRV seminar to refresh their knowledge.		- Designate speakers for lectures and seminars to be conducted by the regional office to stakeholders - Coordinate with the media on reports of IHL cases

REGIONAL PLANS & PROGRAMS	ACTIVITIES	KEY ACTORS	EXPECTED OUTPUT
Region 6			
	- Continued seminars and lectures to military and police on IHL and IHL Law (RA 9851) in coordination with PNP and AFP - Lectures on CARHRIHL in barangays with established NPA presence or have histories of IED use/experience in coordination with the concerned LGU's and its officials - Creation of a QRT tasked to investigate alleged violations of IHL - Creation of Human Rights and IHL Club in some high schools region-wide - Intensified campaign in the media about RA 9851 and CARHRIHL		
Region 7			
(Not represented)			
Region 8			
(No operations plan submitted)			
Region 9			
	- Increase the level of awareness of IHL among the different stakeholders especially the civilian populace - Encourage victims of IHL violation to report their complaints to the proper fora - Improve case build-up for violations of IHL - Increase advocacy on IHL.		- Prioritize dissemination of information on IHL in remote areas by: a) Tying up with local partners and stakeholders to disseminate information through the barangay level; b) Utilizing partner mass media in reaching out to these remote areas. - Extend maximum protection both to victims of IHL violations and witnesses to such. - Coordinate and tie up with the DOJ to work on the investigation or case build up and prosecution of IHL violations - Increase trainings, seminars workshops for investigators and prosecutors who will be handling cases for IHL violations - Prioritize IHL programs by specifically allotting funds for these programs (education/information, investigation/ prosecution, protection).
Region 10			

REGIONAL PLANS & PROGRAMS	ACTIVITIES	KEY ACTORS	EXPECTED OUTPUT
Region 11			
	• Enhance the investigation of cases • Continue the conduct of seminars/ lectures on LOAC (IHL) not only for the AFP and PNP but also for other sectors including LGUs and the barangays. • Advocate and support the total ban on the use of all forms of landmines and explosives; • Monitor and support the strict enforcement of law on the use of unauthorized firearms and uniforms; • Production of a simplified and Visayan version of IHL.		• Designate focal and alternate focal persons on IHL preferably investigators responsible for IHL cases who will attend trainings and seminars and represent the Office and dialogues , meetings and other fora; • Create pool of speakers who will conduct trainings/ seminars and lectures; • Give priority to IHL cases; • Continue networking and conducting dialogues with key stakeholders on IHL and human rights protection and promotion and advocating the total ban on the use of all forms of landmines and explosives and the strict enforcement of the law on the use of unauthorized firearms and uniforms; • Design/create simplified and Visayan version of IHL.

Region 12				
PROJECTS/ PROGRAMS ACTIVITIES (PPAs)	TIME FRAME	AREAS	PARTNERS	FUND SOURCE
Sustaining the Public Information and Education activities with the law enforcement and Security Sectors	Whole year round	Region XII and ARMM (Maguindanao Province)	Divisions, Brigades, Battalions and Special Units of the AFP Regional, Provincial and special units of the PNP	Regular fund and UNHCR
Expanding the PIE, PPAs with the communities thru the LGUs	Whole year round	Region XII and ARMM (Maguindanao Province)	LGUs	Regular fund and UNHCR
Establishment of the BHRACs in priority areas	Whole year round	Region XII and ARMM (Maguindanao Province)	DILG LGUs CSOs	
Capacity building/ special training of BHRAOs as who will act as Community Humanitarian Protection Monitors (BHRAO-CHPM) for priority areas	Whole year round	Region XII and ARMM (Maguindanao Province)	DILG LGUs CSOs	

The IHL Logo



HUMAN RIGHTS

INTERNATIONAL HUMANITARIAN LAW

COOPERATION

CONFLICT

NEUTRALITY & PROTECTION



HUMAN RIGHTS-INTERNATIONAL HUMANITARIAN LAW
COMMISSION ON HUMAN RIGHTS



Philippine Coalition for the
International Criminal Court

