



**Inputs to the Human Rights Council Advisory Committee on Resolution 34/8 of the Human Rights Council on “Effects of terrorism on the enjoyment of all human rights”**

**1 June 2018**

1. The Commission on Human Rights of the Philippines (hereinafter the Commission) submits to the Human Rights Council Advisory Committee, its inputs relative to Resolution 34/8 of the Human Rights Council on “Effects of terrorism on the enjoyment of all human rights.”
2. As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights of the Philippines has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has “A”-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI).
3. This submission utilized the Commission’s own documentation of independent monitoring activities and statements which were subjected to the internal deliberations of the Commission En Banc, with a focus on Mindanao. It also took into consideration local and international reports from government, civil society, the media, and international non-government organizations.

**I. Laws and policies of government**

4. The following inputs are from the National Disaster Risk Reduction and Management Council (NDRRMC). The inputs specifically focus on the national and regional mechanisms in addressing the effects of terrorism on the enjoyment of all human rights and fundamental freedoms particularly on economic, social and cultural rights as stipulated in paragraph 20 of HRC Resolution 34/8.
5. The NDRRMC was established as the country’s institutional mechanism for inter-agency policy-making, coordination, integration, supervision, monitoring and evaluation on

Disaster Risk Reduction and Management (DRRM). The member agencies of the NDRRMC are also clustered based on the four thematic pillar and serves as machinery for the convergence of various government agencies, non-government organizations (NGOs), civil society and private sector to address the adverse impacts of disaster, both natural and human-induced.

6. RA 10121 otherwise known as "Philippine Disaster Risk Reduction and Management Act" was enacted to strengthen and institutionalize the Philippine Disaster Risk Reduction and Management System (PDRRMS), National Disaster Risk Reduction and Management Plan (NDRRMP) and the National Disaster Risk Reduction and Management Framework (NDRRMF).
7. The NDRRMP where the NDRRMF covers four thematic areas namely Prevention and Mitigation; Preparedness; Response; and Rehabilitation and Recovery which correspond to the structure of NDRRMC. By law, the Office of Civil Defense (OCD) formulates and implements the NDRRMP and ensures that the physical framework, social, economic and environmental plans of communities, cities and provinces are consistent with the plan. The NDRRMP is a roadmap on how DRRM shall contribute to gender-responsive and rights-based sustainable development. One of the highlights of this plan includes the consequences of human-induced disasters such as internal displacement, public anxiety, loss of lives, destruction of property and sometimes socio-political instability. Encompassing conflict resolution approaches, the plan seeks to mainstream DRRM into the peace process. (NDRRMP 2011-2028)
8. Through these four thematic pillars of DRRM, elements of development that are most likely to be affected in the advent of natural and human-induced disaster such as social, economic and physical (infrastructure) are holistically taken into consideration in identifying programs, activities and projects.
9. Rapid damage assessment and needs analysis (RDANA) is one of the post damage mechanisms that the OCD employs in harmonization with other government agencies to determine the extent of damage brought by natural and human-induced disaster and to determine the immediate needs of the affected population. Through this mechanism, concerned agencies through the NDRRMC work hand-in-hand to address the impacts of terrorism taking into consideration gender, culture and fundamental rights. Relief and response operations serve as the immediate feats after the conduct of this assessment to provide for the basic social and economic needs of the affected community.
10. Post Conflict Needs Analysis (PCNA) is specifically employed for human-induced disaster such as terrorism. This is a multi-agency mechanism established to develop a responsive rehabilitation and recovery plan that is compliant with the building back better principle. As to the social development of the affected population, the PCNA paves the way for the provision of cultural, gender and rights-based temporary and permanent resettlement of IDPs who are affected by terrorism, their source of livelihood, normal status of health and well-being by giving the affected population an access to socio-economic opportunities. After the assessment, multi-agency peace-building initiatives are also organized for the afflicted population to normalize their psycho-social well-being.

## **II. Introduction: Mindanao**

11. The conflict in the Philippine region of Mindanao, particularly in its Muslim-dominated regions and Eastern hinterlands, has persisted for centuries (Schiavo-Campo and Judd, 2005). The continuous armed struggle between revolutionary groups and the Philippine government, exacerbated by the presence of interested external parties, put the people of Mindanao at a disposition where their safety and dignity are compromised. The destruction of homes and infrastructures in conflict areas greatly affected the day-to-day realities of the people, particularly for those who had to leave their places of origin to seek safe grounds. The sudden displacement of these families left them living without consistent and adequate access to food, water, and shelter, a situation that makes them vulnerable to predatory and exploitative activities. In many parts of Mindanao, protracted displacement caused by sporadic armed encounters has also become a recurrent phenomenon for affected communities.
12. Peace processes, for their part, have been established in the hopes that the government and revolutionary groups will find a political common ground that will end armed violence. Peace talks have been in place to craft agreements that will lay down the foundation for new governance structures that aim to respond to standing grievances of revolutionary movements and their communities (Caballero and Torres, 2016). The Philippine peace tracks also espouse a peacebuilding approach that look into creating opportunities for development in the region while pursuing peace agreements to cement the gains of economic progress. (Caballero and Torres, 2016). Though settlements and gains have been achieved by these peace processes, conflict continues to persist in different forms, such as rido (clan feuding). In instances when peace processes fail, the civilian communities are the first to bear the brunt of the war, often leading to displacement. In recent years, frustrations from the continuing absence of peace in Mindanao, along with the failed promises of the government towards the aggrieved communities, had also bred the rise of extremist movements.
13. Given the complexities brought by armed conflict in the bigger political milieu, the full enjoyment of human rights has become a challenge for stakeholders, particularly when the state fails in its obligation to respect, protect, and fulfill human rights. Peace, hence, becomes a precondition in a socio-political environment where the upholding of human rights is optimized and fully enjoyed by all individuals.

## **III. The history and current realities of conflict in Mindanao**

14. The sustained presence of armed conflict in Mindanao mainly revolves on two key issues: the struggle for self-determination of the Bangsamoro people, and the adherence to communist ideology. Various factors influence and contribute to these ongoing conflicts. The socio-political context of Mindanao shaped the centuries-old conflict, which

builds on and further exacerbates the long-standing clan feuds within the Muslim population, and the divided populace composed of the indigenous peoples (Lumad), Moros, and migrant families (Herbolzheimer, 2015). Discrimination and harassment were also a driving factor in the rise of conflict in the region, particularly for the Moro people during colonial Spanish and American regimes. This build-up of the grievances of the Muslim population towards the Christian settlers can be traced back to the Spanish colonization, as Moro Muslims maintained that they have already established their own government system and identity long before the Philippines was colonized (Adriano and Parks, 2013,12).

15. Coming from these social exclusionary practices, the Moros developed distrust against the Christian populace, particularly over land ownership (Adriano and Parks, 2013). This conflict over land resulted from the imposition of the US colonial administration's land ownership system that was unfavorable to the Muslims (Herbolzheimer, 2015). Adriano and Parks (2013) further noted that the influx of migrants from Luzon and Visayas eventually outgrew the population of the native inhabitants of Mindanao, and the settlers owned more lands than the natives. IPs were also negatively affected because of the introduction of new rules that undermined their customs of land properties (Adriano and Parks, 2013). The American administrators also imposed policies for the assimilation of the Muslim and IP population with the majority (Adriano and Parks, 2013).
16. The marginalization of the Muslim population and the IP groups was sustained under the Philippine Government. The grievances and resentment continued to grow, which eventually resulted to the rise of armed groups fighting for self-determination in the late 1960s. The alleged death of 28 young Moro military trainees in the hands of the government forces known as the Jabidah Massacre triggered separatist movements in 1968 (Adriano and Parks, 2013). In 1969, the Moro National Liberation Front (MNLF), an armed group fighting for the autonomy of the Muslim regions in Mindanao, emerged. After many years of waging revolutionary conflict against the government as well as tackling infighting within the organization, the MNLF experienced schisms that led to the creation of different armed groups such as the Moro Islamic Liberation Front (MILF) and the Bangsamoro Islamic Freedom Fighters (BIFF).
17. Aside from the separatist movements aiming for Bangsamoro self-determination, another contributing factor to the protracted conflict in Mindanao is the government policy against communist insurgency. In 1969, Jose Maria Sison established the Communist Party of the Philippines (CPP), with the New People's Army (NPA) as its armed force. Rooted in the Maoist ideology of communism that adheres to the "theory of agrarian" and "peasant-based protracted armed struggle" (Morales, 2003:21), the group aims "to wage a protracted people's war to overthrow the government and replace it with a national democratic system with a socialist perspective" (Santos, 2010:17).
18. The creation of the CPP-NPA in the 1960s was brought about by various factors. As cited by Santos (2010), the National Unification Commission has enumerated poverty

and inequality, poor governance, injustice, and the marginalization of indigenous groups in the Philippines as the main contributors to the rise and prevalence of communist insurgency. However, it was upon the declaration and implementation of Martial Law by Ferdinand Marcos during the 1970s that the CPP-NPA membership expanded. The growth in their membership during this time was brought about by the influx of dissenters and critics who organized themselves underground and stayed in the countryside close to the communist front, before eventually joining the insurgency movement (International Crisis Group, 2011). The trend for strong base membership of the CPP-NPA continued until the 1980s, when the party was able to gather more than 30,000 members. From 1986 up to 2000, the number of the CPP-NPA cadres shrunk. The changes in the political landscape and the divide within the organization are the main factors for the weakening of the communist insurgency (Santos, 2010).

19. What makes the current quest for Mindanao peace more complex, however, is the intense adherence of some individuals and groups on the religious and ideological positions associated to the conflict, which led to the rise of armed extremist movements. This position of violent extremism in Mindanao emanates from the current socio-political milieu of economic marginalization, discrimination, and repression of right to self-determination (particularly for the Bangsamoro people), coupled with the entrance of radical interpretation of beliefs that seem to legitimize the use of violence to propagate such ideas (Loesch, 2017).
20. The Marawi City Crisis, an armed conflict waged between the Philippine armed forces and the armed non-state ISIS-inspired Maute group, portrays the devastating effects of violent extremism in an already wartorn region. During the height of the crisis, almost 354,000 families have fled due to the armed fighting between government forces and ISIS inspired-terror groups (Protection Cluster Philippines, 2017). The conflict forced the civilians to take shelter in crowded evacuation centers that brought detrimental effects to their well-being, or to live with host families who become burdened with the additional costs of taking in displaced family members. The Commission has documented the experiences of some communities of internally displaced persons (IDP) affected by the Marawi City Crisis who lacked access to adequate food and potable water, education, healthcare and medicine, and safe and adequate shelter (CHR, 2017). On top of such concerns, the IDPs were not able to receive timely information coming from government agencies as regards the plans for their return or resettlement (CHR, 2017). The implementation of Martial Law in Mindanao also created an environment of fear among some Marawi IDPs (CHR, 2017).

#### **IV. Proposed solution to conflict: Peace talks**

21. Given these roots and issues where conflict emanates in different areas in Mindanao, as well as the gross violations of human rights in situations of conflict, peace process efforts are being implemented to ensure that the cessation of hostilities is in place, and that the

time of temporary peace can be optimized to bring forth socio-economic development that can create fertile grounds for peace to take root.

22. To quell the conflict through mutually agreed propositions, the government has engaged armed groups in peace negotiations. However, despite decades of pursuing peace talks, the respective peace tables on the conflicts between the government and MNLF, the MILF, and the CPP-NPA (represented by the National Democratic Front of the Philippines) are still short from achieving fully implemented agreements that could usher in sustainable peace in the communities.
23. The first peace negotiations addressing the Mindanao conflict took place during the Marcos regime in 1976, when the peace talks between the Government and the MNLF led to the signing of the Tripoli Agreement (Bell and Utley, 2015). However, low intensity conflicts still took place even after the signing of the agreement (World Bank, 2011). During Cory Aquino's presidency, the talks with the MNLF resumed, resulting to the Jeddah Accord in 1987 (Bell and Utley, 2015). To actualize the provisions of the peace agreements, the Republic Act 6734 establishing the Autonomous Region in Muslim Mindanao (ARMM) was promulgated. In 1996, during the administration of Fidel Ramos, the Final Agreement on the Implementation of the 1976 Tripoli Agreement was signed.
24. Even with these developments in the peace negotiations, a faction within the MNLF bolted out of the organization to establish their own movement with a religious undertone in its struggle for self-determination (Taya, 2018). This new group, called the Moro Islamic Liberation Front, pursued its own struggle against the Philippine government with their goals for independence and the establishment of an Islamic state and government (Taya, 2018). This struggle was met with the government declaration of an all-out war during the Estrada Administration from 1999 to 2000 (Taya, 2018). In 2001, during the term of Gloria Arroyo, the government engaged the MILF in peace talks (Taya, 2018), albeit with skirmishes ongoing, which included the infamous attack on the MILF camp Buliok Complex in 2003 and the violent aftermath of the declaration of unconstitutionality of the Memorandum of Agreement on Ancestral Domains between the two parties in 2008 (Taufik, 2016).
25. It was during the time of Benigno Aquino III that the peace talks between the government and the MILF took a positive turn. These milestones included the signing of the Framework Agreement on the Bangsamoro in 2012, and the finalization of the Comprehensive Agreement on the Bangsamoro in 2014, which led to the creation of the proposed bill on the Bangsamoro Basic Law (Rappler, 2014). The gains of these accomplishments, however, were negated by the backlash against the peace process when at least 67 individuals, including 44 policemen, were killed in a clash between the MILF and the Special Action Force of the Philippine National Police in Mamasapano, Maguindanao, in 2015 (IAG, 2015).

26. On the communist front, the CPP-NPA-NDFP first entered into preliminary peace talks with the government during the administration of Cory Aquino, with the formal peace negotiations between the two parties commencing in 1995 (Bell and Farahnoosh, 2015). Said talks, which have experienced breakdowns and resumptions over time, have resulted to more than twenty agreements forged over nearly thirty years (Bell and Farahnoosh, 2015). However, the implementation of said agreements, particularly the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL), remains problematic (Bell and Farahnoosh, 2015). In 2017, President Rodrigo Duterte signed Proclamation No. 360, terminating the peace negotiations between the government and the CPP-NPA-NDFP, thus creating an environment ripe for prolonged armed violence.

## **V. Human rights in situations of conflict**

27. As the peace talks between the government and the major armed groups in Mindanao remain in a state of non-solution, worse an impasse, the environment of conflict continues to thrive in the communities. With the current military rule in place in the region, the chances of human rights violations happening in Mindanao have become more probable than in the previous times of peace.

28. Human rights violations have been occurring in Mindanao in the past decades, with high numbers of incidents happening during situations of armed conflict, both as violations of standing human rights laws and of the International Humanitarian Law. The CHR, as the national human rights institution, monitors the human rights situation of individuals affected by armed conflict. In recent years, the CHR had been part of the monitoring missions on the situation of individuals and communities affected by the Zamboanga City Crisis in 2013, and the Mamasapano Encounter in 2015. The Commission has also documented possible human rights violations committed against individuals living in conflict areas, such as the killings of IP leaders and their families in the CARAGA Region (CHR CARAGA, 2018). The US Department of State has also stated that in 2016, there have been consistent complaints against the Armed Forces of the Philippines, under their duty of combating non-state armed groups, on grounds of illegal detention of civilians and IDPs (US Department of State, 2017).

29. With the introduction of Martial Law in Mindanao during the onset of the Marawi City Crisis, fears of indiscriminate and targeted human rights violations were present among the human rights sector communities. Displaced Marawi residents also expressed fears about being apprehended without legitimate reasons (CHR, 2017). The CHR has received and documented information on possible human rights violations against conflict-displaced individuals, such as alleged incidents of unlawful arrests, torture, enforced disappearance, and extrajudicial killing (CHR, 2017B).

30. Sexual and gender-based violence is also on the rise in instances of conflict. During the displacement resulting from the Zamboanga City Crisis in 2013, reports of women becoming vulnerable to predatory and exploitative activities such as prostitution and trafficking have become rampant (Bermudez, 2014). Such realities emanate from the socio-economic environment that increases the vulnerability of women and girls due to lack of strong protective social structures, as well as from the unstable nature of conflict that exposes them to further harm (Bermudez, 2014). Other literature and observations on the ground would also highlight the patriarchal practices in communities that tend to exacerbate, and to be exacerbated by, conflict. Dwyer and Cagoco-Guiam (2012) discussed the impact of conflict in the lives of men who are caught in a cycle of violence where their masculinity could only be expressed by joining the armed struggle.
31. Children also bear the brunt of wars. Aside from the probable physical harm imposed by armed encounters towards individuals, psychological trauma and distress also affect families who are seeking safe grounds (Bermudez, 2014). Children are highly vulnerable to psychosocial distress which greatly affect their well-being, as exemplified in the documented instances of the CHR during one of its missions to displaced communities affected by the Marawi City Crisis (CHR, 2017C). Enjoyment of social rights is also more difficult to exercise in such situations. Children with special needs, for instance, are less capable of accessing support during times of conflict than other members of the population, making them more at risk to harms in areas of displacement (CHR, 2017C).
32. Though violations could occur even in situations of peace, the lack of protective structures in times of conflict makes it more difficult for stakeholders to ensure that their human rights are respected, protected, and fulfilled. Sriram, et. al (2014) noted that the pursuit of legal accountability against perpetrators of human rights violations is also problematic in a conflict setting. In certain instances, violations of human rights also fuel ongoing conflicts (Sriram, et. al, 2014). These reasons bring into the discussion the need for a peaceful environment as a venue for human rights to be fully enjoyed by individuals.

## **VI. Conclusion: Human rights and the elusiveness of peace in Mindanao**

33. Granted these human rights issues and concerns that emanate from conflict, it then becomes an imperative to establish an environment of peace where human rights could fully thrive. The establishment of peace talks, though not necessarily implemented solely for human rights protection, is a welcome development in the human rights advocacy in Mindanao. Gains from the ongoing negotiations include cessation of hostilities, which, though temporary, can provide a semblance of normalcy to communities, and the signing of frameworks where parties could explore respective interests without necessarily opting to return to armed encounters. Such example of this would have been the CARHRIHL between the government and the CPP-NPA-NDFP, had it been implemented in its entirety.



34. Peace talks, however, are not enough to ensure that peace would actually dawn on conflict lands. These negotiations are political instruments crafted by individuals and entities with specific interests which may or may not best suit the needs of communities affected by the conflict. Peacebuilding efforts, which have now become part of the complementary track to the peace talks, include community-building and introduction of development projects to ensure that the political gains of the peace talks will take root in communities (NEDA, 2013). Such approach takes an optimistic purview on conflict resolution by seeing conflict as a function of socio-economic conditions that breed discontent among the marginalized communities. Though with merit, this might not be the most plausible approach in addressing concerns of violent extremism, a phenomenon which relies heavily on individual beliefs and grievances in the recruitment of members to join the armed movements.
35. Nuancing must be undertaken in looking at the case of Mindanao. Though the roots of conflict in the region are predominantly on socio-economic and political grievances, peace as a precondition for dignified living, including the full enjoyment of human rights, must be approached with a holistic perspective. Culture and religion, though identified as a contributing factor to conflict, tend to play a huge role in creating peaceful communities. Understanding the different aspects of ethnic and traditional life is crucial in coming up with community-based solutions to combat extremist beliefs and ideologies.
36. Human rights, for its matter, should take central stage in the conduct of peace talks. The cyclical nature of violence rests on the continued and blatant violations of human rights of individuals who would then choose to bear arms (Sriram, et. al, 2014). Though there is already the International Humanitarian Law to cover human rights violations committed during wartime, and such is a significant advancement in the human rights regime, the respect for human rights can only be fully actualized in an environment where peace is the norm. Peace talks must prioritize the supremacy of human rights in the full course of negotiations, particularly the strengthening of human rights institutions and attached mechanisms to ensure that no party would violate human rights on the ground, an act which could only exacerbate the already standing grievances that bred conflict in the first place.
37. Understanding the elusiveness of peace in Mindanao warrants a constant understanding of the roots of the conflict, their socio-political implications, their economic and development issues, the religious and cultural backdrop of the communities affected, and the need for justice to take place. It is a process that must take into consideration the importance of the time element -- the combatants of yesterday are the peace negotiators of today, yet the combatants of today might be experiencing grievances that will not see the peace table as an option for resolution tomorrow. The people's daily experiences of conflict inform how they perceive peace in the long run, and interventions for the promotion of peace must be in place as early as possible. The road to peace is

not simply about political decisions made at the high level; it is, ultimately, about winning the hearts and minds of all affected parties, combatants and communities alike, to embrace peace as the only option available in living life with dignity.

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