



The Use of Human Rights for the Protraction of War

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ABSTRACT. Despite declaring their intentions to recognize human-rights standards and international humanitarian law through the signing of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL), neither the Government of the Republic of the Philippines (GRP) nor the Communist Party of the Philippines -New People's Army-National Democratic Front (CPP-NPA-NDF) have been truly determined to improve the human rights situation in the Philippines caused by almost four decades of conflict. Both sides wish to destroy each other militarily as well as use the peace talks as a diversionary tactic. To say that one or both sides are not really serious about the whole process may seem too facile an explanation for the lack of progress in the talks. But indeed, neither side has demonstrated genuine sincerity to the process. The Philippine government is dominated by a politico-economic elite composed of powerful families that manipulate elections through patronage, corruption, and violence. Meanwhile, the CPP-NPA-NDF seeks to overthrow the government and establish a "people's democracy" based on a Stalinist-Maoist one-party dictatorship. The solution lies in third party forces: civil-society organizations and international political entities.

KEYWORDS. human rights · peace talks · CPP-NPA-NDF

INTRODUCTION

In September 1992, the Government of the Republic of the Philippines (GRP) and the National Democratic Front (NDF) signed a joint declaration in The Hague, the Netherlands, in which both sides signified their intention to hold peace negotiations to resolve their long-standing armed conflict and work toward the attainment of a just and lasting peace. The two parties laid down four substantive agenda items for the talks: 1) human rights and international humanitarian law, 2) social and economic reforms, 3) political and constitutional reforms, and 4) end of hostilities and disposition of forces.

In March 1998, the government and the NDF forged the so-called Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) avowedly “to affirm their constant and continuing mutual commitment to respect human rights and the principles of international humanitarian law.” GRP peace panel member Rene V. Sarmiento, currently the officer-in-charge of the Office of the Presidential Adviser on the Peace Process (OPAPP), hailed it as “a landmark agreement” and a “glowing testimonial to the painstaking and persevering efforts of the two sides.” Luis Jalandoni, chair of the NDF peace panel, likewise extolled it, declaring it to be “founded on the interests, aspirations, and concrete situation of the Filipino people, especially the workers, peasants, urban poor, women, fisherfolk, national minorities, and other struggling sectors of Philippine society” (Sarmiento 2003, 10-11).

Today, more than thirteen years since the signing of the declaration in The Hague, there remain no signs of a comprehensive peace agreement between the government and the NDF being reached anytime soon. In recent years, in fact, the armed clashes between government and rebel forces, and the numbers of those killed as a result of the fighting have increased (Project Ploughshares 2005). Despite CARHRIHL, the human-rights situation has worsened; incidents of arbitrary arrests and detention, torture, extrajudicial killings, involuntary disappearances, and forced displacements have sharply increased. With poverty, joblessness, landlessness, and violence on the rise, the human security situation has also deteriorated. Throughout this period, the government and the NDF have been blaming each other for the lack of progress in the talks and accusing each other of not really being serious about the peace process.

PEACE TALKS AS A TOOL OF WAR

To say that either side is not really serious about the whole process may seem too facile an explanation for the lack of progress in the talks. But indeed, neither side has demonstrated genuine sincerity to the process. A good hard look at the very character of the two parties and of their actions, especially outside of the talks, would reveal why this is so. The lofty claims of both the government and the NDF about commitment to democracy, human rights, and peace do not hold much water.

The government is essentially the instrument of what Paul Hutchcroft has described as a “patrimonial oligarchic state”—a weak

state captured and preyed upon by an entrenched politico-economic elite, who take advantage of, and extract privileges from, a largely incoherent bureaucracy (Hutchcroft 1998). The government presides over an “elite democracy” (Bello and Gershman 1990; Stauffer 1990; Timberman 1991) or “cacique democracy” (Anderson 1988), a truncated type of formal democracy in which the country’s powerful political families manipulate and dominate elections through patronage, corruption, and violence.

The NDF is the politico-diplomatic front of the Communist Party of the Philippines (CPP), the CPP’s New People’s Army (NPA), and the CPP-led “national democratic” (ND) organizations. The CPP-NPA-NDF, which has been waging a “protracted people’s war” over the last thirty-seven years, seeks to overthrow the government and establish a “national democracy” or “people’s democracy” patterned after that of China during Mao Zedong’s time (see chapter 3 of Guerrero 1979). The experiences of the Communist Party-led states of Eastern Europe, China, North Korea, and others have shown that their so-called people’s republics and people’s democracies evolved into Stalinist one-party dictatorships.

The government and the CPP-NPA-NDF seek to destroy the other mainly through military means. For both, the peace talks are merely a tool of war. While continuing with its military operations against NPA guerrillas, the government engages in the talks and tries to win back CPP-NPA-NDF adherents into the fold of the law (read: surrender) by undertaking some cosmetic reforms and granting a few concessions. (“Law” in a patrimonial oligarchic state, needless to say, is not exactly the same as that in the rule of law.) The CPP-NPA-NDF still aims to seize political power mainly through armed means. The talks are a means to attain “belligerency status”¹ –for weakening and isolating the government nationally and internationally and priming it for eventual overthrow. Netherlands-based CPP Chairman Jose Maria Sison (a.k.a. Armando Liwanag) insists that “the people’s democratic government has already gained [belligerency status] through the people’s revolutionary struggle” but admits that it still has to work for the international or diplomatic recognition of such status (Sison with Rosca 2004, 98).

When the government and the NDF first held talks in December 1986, the former was in a relatively strong negotiating position. The government of Corazon C. Aquino, installed by no less than the “People Power Revolution” of 1986, was riding high. The CPP-NPA-NDF was on the political defensive. Because of its boycott of the 1986

elections, it had been left out of the popular uprising and was beset by internal debates and recriminations. The government, however, was not very stable, threatened by militarist forces plotting to topple it through a coup d'etat. These militarists favored a hardline policy toward all insurgents. Ultimately, the GRP-NDF talks collapsed in less than two months. The government then waged a "total war" against the CPP-NPA-NDF, but it did not succeed in vanquishing the Maoist rebels (Quimpo 1993).

Because of the sudden and extraordinary turn of events in 1986-1987, the CPP-NPA-NDF had not had much opportunity to define clearly how peace negotiations fitted, if at all, in its overall revolutionary strategy. Within the CPP-NPA-NDF, the issue of attaining belligerency status became a bone of contention. Prior to the 1986-1987 talks, the GRP and the NDF had signed a Memorandum of Agreement on Safety and Immunity Guarantees and Physical Centers and Facilities, which stated,

The present armed conflict referred to in this and in the preliminary ceasefire agreement, as well as in all subsequent agreements, is an internal problem of the Philippines. This agreement, the preliminary ceasefire agreement, and any other subsequent agreement, or any provision or provisions thereof, shall not invest the NDF with the status of belligerency under the laws of war.

In a letter to the CPP Central Committee on December 6, 1986, Sison, writing as Patnubay Liwanag, excoriated the NDF panel's acquiescence to this provision, among others, interpreting this as a surrender to GRP authority. In his view, the NDF, by signing the 1986 ceasefire agreement, had

given up in principle its claim to political authority over millions of people in extensive areas of the Philippines; outlawed its own people's army; rendered illegitimate such functions of the people's government as taxation and defense; deprived itself of the rights and privileges under the laws of war; and unwittingly made GRP-NDF negotiations on the substantive issues superfluous inasmuch as these become subject to GRP authority, institutions, and processes.

Because of his concern for obtaining belligerency status, Sison also criticized the NDF panel's agreement to the talks being held in the Philippines.

It is necessary for the talks to be conducted elsewhere because for the NDF and all other revolutionary forces to gain the status of belligerency, at least, there should be one country serving as mediator and formalizing in the eyes of international law the status of belligerency that properly belongs to the revolutionary movement. (Sison 1987, 60)

What role could peace talks possibly have in a “people’s war”? In the early 1990s, in the course of pursuing its international relations work, the CPP-NPA-NDF finally came around to finding and defining a role for peace negotiations. Since the fall of Marcos, the NDF had been stumped with the question of how it could advance its “diplomatic struggle.” In trying to reach out to governments and intergovernmental bodies, the NDF often could not even make it to “first base”—gaining an audience with their representatives (other than low-level functionaries). Thus, the idea arose for the NDF to push for peace talks. Indeed, given the prolonged nature and the great human and economic costs of the armed conflict in the Philippines, who would possibly not support peace talks? It was resolved that the CPP-NPA-NDF would use peace negotiations as a tactic to develop the NDF’s “diplomatic struggle” and to eventually gain “belligerency status.” The revolutionary objective would continue to be the capture of state power, and the principal means to achieve this would still be armed struggle. In other words, the use of peace talks and “diplomatic struggle” would be in the service of achieving an armed seizure of state power.²

Peace-negotiations-as-tactic scored some quick initial successes. After some lobbying by Europe-based CPP-NDF members who were right at the European Parliament (EP) premises in Brussels, the EP passed a resolution in December 1990 expressing concern over grave violations of human rights in the Philippines and explicitly calling on the government and the NDF to open peace negotiations. The NDF had achieved a breakthrough in its diplomatic work—it was the very first time that the NDF was ever mentioned in an EP resolution. In 1991, just several months after the EP breakthrough, the NDF scored again, as the Swiss government offered its offices for peace talks between the Philippine government and the NDF.³

In mid-1992, Fidel V. Ramos was installed as president of the Philippines. The Ramos administration was in a much stronger position in negotiating with the NDF than its predecessor. In the wake of the fall of the socialist regimes in Eastern Europe and the Soviet Union, the CPP-NPA-NDF had been plunged deeper into internal dissension and, by the start of Ramos’s term, was on the verge of a big

split. Moreover, Ramos, a retired general, knew how to deal with disgruntled elements within the Philippine armed forces.⁴ There were no major coup attempts under his administration.

Ramos's decision to reopen talks with the NDF seemed a very shrewd move. Besides being in a strong negotiating position, he knew the CPP-NPA-NDF's game. He refused to have the GRP-NDF talks officially hosted by a foreign government, recognizing the politico-diplomatic implications of the involvement of such a third party. In The Hague, the GRP quickly agreed with the NDF on the four substantive agenda items mentioned earlier. Ramos's intent was to get a final, comprehensive peace agreement sewn up as soon as the two sides had arrived at a consensus on all four items. He wanted the final agreement signed before the end of his term (Government Peace Negotiating Panel for Talks with the CPP-NPA-NDF Secretariat [GPNP-CNN] 2004, xxiii).

Still aiming for "total victory," the CPP-NPA-NDF was not interested in a final political settlement. Instead of working for a final pact within a period of several months or a few years, the CPP-NPA-NDF wanted to stretch out the whole peace process indefinitely and to eke out as much politico-diplomatic gain as it could every step of the way. "Protracted peace talks" would be turned into a valuable tool for the "protracted people's war." Accordingly, it took a piecemeal approach to the peace process, one agenda item at a time. As a first step in its "protracted peace talks" game plan, the CPP-NPA-NDF pushed for an agreement on human rights and international humanitarian law.

How CARHRIHL CAME TO BE FORGED

At the time that the NDF had just opened peace negotiations with the Ramos government, there were those within the CPP-NPA-NDF who questioned the very universality of human rights. They regarded human rights as being "bourgeois-liberal," to quote former CPP Secretary-General Rafael Baylosis, now an NDF peace panel member. Nonetheless, they saw a tactical use in the struggle for human rights, as Baylosis explains,

The struggle for "human rights" is a legitimate and necessary part of the overall national democratic struggle. In my opinion, however, it should be confined to the sphere of tactical struggle or the struggle for reforms, used as only one of the means or forms of organization in working or forging alliances with those in the upper sections of the petty bourgeoisie

and the national bourgeoisie and with their bourgeois-reformist organizations; in working within the state bureaucracy and the military, and other reactionary institutions like the Church, in order to divide the reactionary classes; and in drawing sympathy and support for our struggle from bourgeois-liberal political forces and institutions of other countries. It is also an important instrument in principled political negotiations of revolutionary and progressive forces with the reactionary government or any part of this. Also in dealing with important international organizations dominated by imperialism and reaction like the United Nations. (translated from Filipino, Baylosis 1994, 6).

According to Ramon Casiple of the Philippine Alliance of Human Rights Advocates, Baylosis's position found scant support among human-rights advocates. This prompted the CPP-NPA-NDF to try to refine its human-rights position. Breaking with Baylosis' position, Sison, the CPP chairman, has avowedly recognized the universality of human rights. However, he has adopted a class-based human-rights framework that, as Casiple puts it, is actually "hostile to the universality principle" (Casiple 1996, 9-10). Sison depicts the "exploiting classes"—the "imperialists" and "big compradors and landlords"—in absolute terms as violating the human rights (civil and political as well as economic, social, and cultural) of the "exploited classes"—the workers, peasants, and middle social strata. He portrays the "reactionary" Philippine state as serving as an instrument of oppression by the exploiting classes and as "violating the guarantees of civil and political rights in the bill of rights of its own constitution as well as those in the UN instruments on human rights." Then he asserts that only a "people's democratic state" would guarantee the human rights of the people in every aspect of social life, and that the only genuine human rights movement is one that pursues the ND line (Sison 1995).⁵

During talks held in the Netherlands and by telephone and fax in early 1995 on the formation of "Reciprocal Working Committees" (RWCs) on the four agenda items, the NDF succeeded somewhat in outmaneuvering the government side. The GRP panel wanted the RWCs on the four agenda items to conduct discussions simultaneously, so that a final peace agreement could be forged at the soonest possible time. However, the Joint Agreement on the Formation, Sequence, and Operationalization of the Reciprocal Working Committees (or RWC Agreement) that the GRP and NDF panels signed in Brussels, Belgium, in June 1995 hewed more to the NDF's piecemeal approach. The RWC Agreement stipulated that the two panels would first form an

RWC on human rights and international humanitarian law, followed by an RWC on social and economic reforms three months after, then by an RWC on political and constitutional reforms another three months after, and for an unspecified period after, by an RWC on the end of hostilities and disposition of forces. The agreement further provided,

The RWCs shall recommend to the Negotiating Panels the separate and distinct effectivity dates of each comprehensive agreement as a whole as well as certain parts or provisions thereof. Subsequently, the Negotiating Panels shall discuss and mutually agree on the aforesaid dates of effectivity.

By April 1997, the RWC on human rights still had not completed its work, and the next RWC in line—that on social economic reforms—still had not been formed. At the rate the work was proceeding, it would be impossible for a final peace agreement to be hammered out before the end of Ramos's term, which was just a little over a year away.

To hasten the peace process and to counter the NDF's piecemeal approach, the government proposed a “Four-in-One Package”: “the four comprehensive agreements on the substantive agenda for the talks will be negotiated and initialed, but the implementation of the agreements will be made possible only after signing by the Panels and approval by the principals, when all four agreements are completed” (GPNP-CNN 2004, xxiv).

The opening provided by the RWC Agreement to the NDF for the protraction of the peace process, however, could no longer be undone. The NDF rejected the “Four-in-One Package.” Sticking to its piecemeal approach, it remained focused on having an agreement on human rights and international humanitarian law worked out. Bit by bit, the NDF, through dogged persistence, broke down GRP resistance. The government panel eventually acceded to CARHRIHL even without the completion of the agreements on the three other items and of the final peace pact.

The GRP and the NDF panels set the objectives of CARHRIHL as follows:

1. To guarantee the protection of human rights to all Filipinos under all circumstances, especially the workers, peasants, and other poor people;
2. To affirm and apply the principles of international humanitarian law to protect the civilian population and

- individual civilians, as well as persons who do not take direct part or who have ceased to take part in the armed hostilities, including persons deprived of their liberty for reasons related to the armed conflict;
3. To establish effective mechanisms and measures for realizing, monitoring, verifying, and ensuring compliance with the provisions of this Agreement; and
 4. To pave the way for comprehensive agreements on economic, social, and political reforms that will ensure the attainment of a just and lasting peace.

In truth, CARHRIHL was a superfluous agreement. Its provisions were already contained in various international declarations and conventions on human rights and international humanitarian law, which the Philippine government had long signed and ratified and which the NDF had already avowed its adherence to. Among the most important international declarations and conventions that the government has agreed to or ratified are the Universal Declaration of Human Rights (1948); the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights (both of which entered into force in 1976); the Geneva Conventions (1949); and Protocol II (1977).⁶ The GRP and the NDF acknowledged, in fact, that CARHRIHL includes principles of human rights and international humanitarian law “embodied in the instruments signed by the Philippines and deemed to be mutually applicable to and acceptable by both Parties.” Moreover, both sides have long had human-rights bodies that are supposed to address and take action on human rights violations—the human rights commission of the GRP and a network of human-rights groups aligned with the CPP-NPA-NDF.

THE FAILURE OF THE GOVERNMENT’S HARDLINE APPROACHES

After representatives of the GRP and the NDF signed CARHRIHL in March 1998, the agreement still had to be approved by the “principals” of both parties for it to take effect. NDF Chairman Mariano Orosa (pseudonym) quickly signed the agreement in April 1998. Newly installed Philippine President Joseph Estrada approved CARHRIHL four months later through Memorandum Order 9, stipulating, however, that the implementation of the agreement would be in accordance

with the constitution and legal processes of the Republic of the Philippines (GPNP-CNN 2004, xxvi). Despite the principals' approvals, nothing much happened with CARHRIHL in the succeeding months. The agreement had provided for the formation of a Joint Monitoring Committee (JMC) that was supposed to monitor the agreement's implementation, but it had yet to be set up.

Estrada was not interested in an implementing mechanism for CARHRIHL; he wanted an immediate comprehensive peace agreement with the NDF. Quickly becoming exasperated with the NDF's refusal to move toward a comprehensive pact, Estrada declared an "all-out war" against the CPP-NPA-NDF, which was then (2000) still in the doldrums. Estrada's war failed miserably. Instead of being brought to its knees, the CPP-NPA-NDF revived, especially in the political sphere (Quimpo 2001). Ironically, the campaign for the ouster of the corrupt Estrada, in which open legal ND organizations participated actively, proved pivotal to the Maoists' recovery. The campaign culminated in the popular uprising of January 2001 ("People Power II"), which toppled Estrada and put Gloria Macapagal Arroyo in power.

While Estrada was still in Malacañang, Arroyo had already been critical of the "all-out war" approach and favored the resumption of GRP-NDF talks. In appreciation of the NDs' role in "People Power II" and as "confidence-building measures" for the talks, Arroyo extended some "gratuities" to the NDs. With the full endorsement of Arroyo's People Power Coalition, the open legal ND political party, Bayan Muna (People First), topped the party-list ballot of May 2001.⁷ Moreover, the Arroyo government acceded to the NDF's long-standing demand of official foreign government involvement in the talks. In fact, it went even further. Confident that no country would ever grant the NDF belligerency status under present global conditions, the Arroyo government *proposed* that the talks be held in Oslo under the auspices of the Norwegian government.

Just like her predecessors, however, Arroyo was unable to make any progress on a "one-piece" final peace agreement. Unable to think of better options, the GRP once again veered toward a hardline position. When the United States (US) and the European Union (EU) launched a global war on terror after the September 11, 2001 attacks in the US, the Arroyo government supported the inclusion of the CPP-NPA in the US-EU list of "foreign terrorist organizations" and the freezing of its assets.

The “terrorist” tag proved a major blow to the NDF’s politico-diplomatic efforts as it negated the image of a respectable political force that the CPP-NPA-NDF had wanted to create and project for itself. Inclusion on the terrorist list, however, did not lead to an actual crackdown on the international network of CPP-NPA-NDF forces. The only thing that “freezing of assets” succeeded in doing was to put a stop on the monthly dole of a few hundred euros that Sison received every month from Dutch social welfare, and the confiscation of advanced royalty from the American publisher of his latest book.⁸

The NDF has repeatedly demanded that the GRP work for the removal of the CPP-NPA from the US-EU terrorist list. The US, however, has refused to budge. According to a ranking official of the US Embassy in Manila, the CPP-NPA would be stricken off the US list of terrorist organizations only if the NDF forges a peace pact with the Philippine government (Ager 2004). To neutralize and eventually to overturn the “terrorist” tag, the CPP-NPA-NDF has intensified its politico-diplomatic efforts, particularly in the peace talks arena. CARHRIHL has played a major role in these efforts.

Indeed, after the signing of CARHRIHL in 1998, the NDF had insisted on the formation of the JMC to oversee the implementation of the agreement. Due to Estrada’s “all-out war,” however, the GRP-NDF peace talks collapsed. After the fall of Estrada and upon the resumption of the talks, the NDF brought the JMC issue back, arguing: What is the point of a human rights agreement if there is no implementing mechanism? At first the Arroyo government insisted that “since sovereignty is indivisible it is the Philippine government alone which has the sole authority to implement all of CARHRIHL including the power to arrest, prosecute, try, and impose sanctions on human rights violators” (Sarmiento 2003, 12). The NDF persisted and once again scored point after point in its diplomatic game. First, the government relented on the JMC; its resistance to an implementing mechanism for an agreement it had already signed proved untenable. Then the Norwegian government agreed to fund the JMC’s operations.⁹ With the JMC in place, the CPP-NPA-NDF has used CARHRIHL to the hilt to “expose and oppose” the “repressive” and “anti-human rights” character of the GRP.¹⁰ In its press releases on CARHRIHL, it often points out that the overwhelming majority of the complaints on human rights abuses filed with the JMC are complaints against GRP forces, and that only a few complaints have been lodged against NDF forces. In a December 7, 2005 press statement, NDF spokesman Luis

Jalandoni declared: “As of December 2, 2005, there have been 454 complaints filed against GRP forces and 14 complaints against NDFP forces” (Jalandoni 2005).

CARHRIHL is somewhat turning into what the CPP-NPA-NDF had wanted it to be all along: a tool for gaining international recognition for the NDF as a “respectable” quasi-state entity that adheres to the norms of human rights and international humanitarian law; and for expediting the political isolation and eventual revolutionary overthrow of the “reactionary Philippine state.” Since the CPP-NPA-NDF does not have the means to immediately seize power, it fights a protracted war and builds up strength through accretion. CARHRIHL is proving most useful for such protraction and accretion.

While endeavoring to build itself up as a respectable, human rights-abiding political force, the CPP-NPA-NDF, however, has been whitewashing or covering up its own violations of international humanitarian law. It refuses to submit itself to an independent and impartial investigation of the torture and killing of hundreds or even thousands of suspected “deep penetration agents” (DPAs), other summary executions, kidnappings, the Plaza Miranda bombing of 1971, and other incidents.¹¹ It has, furthermore, continued to go about its vicious ways of carrying out political assassinations and harassment of leaders and members of other leftist groups, holding kangaroo “people’s” courts, forcibly collecting revolutionary taxes and “permit-to-campaign” fees, and so forth. Among the victims of the CPP-NPA-NDF’s extrajudicial executions have been two former CPP executive committee members shot in cold blood: former NPA chief Romulo Kintanar and Revolutionary Workers’ Party of the Philippines chairman Arturo Tabara.

In December 2004, *Ang Bayan* (The People), the CPP newspaper, published a list of rival leftist parties, groups, and their leaders, categorizing them as “counterrevolutionary.” Since the CPP-NPA-NDF, in the past, has summarily executed many prominent left leaders that it has deemed “counterrevolutionary” (like Kintanar and Tabara), those mentioned in *Ang Bayan* expressed alarm and denounced the CPP-NPA-NDF’s “hit list.” In response, Sison, as NDF “chief political consultant,” challenged the protesters to submit their complaints to the JMC of CARHRIHL. After placing people on an apparent hit list, the CPP-NPA-NDF was now attempting to use them in giving legitimacy to its politico-diplomatic instrument. Ominously, Sison added: “The CARHRIHL provides for the NDFFP and the revolutionary forces and

people it represents to arrest suspected violators of human rights and international humanitarian law, investigate them and, if the evidence warrants, to prosecute and try them" (Sison 2004).¹²

The government has been most unimaginative and ineffective in dealing with the CPP-NPA-NDF, using "hard" or "soft" tactics or a disjointed combination of both. The hardline militarist approach, dubbed with such fearsome labels as "total war," "all-out war," or "war on terror," has never really worked. Under conditions of widespread poverty and great social disparity, and with the government widely perceived as being controlled by the elite, the CPP-NPA-NDF has managed to maintain a sizeable mass base among the disaffected, especially in the countryside. The large-scale violations of human rights that have resulted from the Philippine military's "counterinsurgency" or "counterterrorism" operations have served to further alienate large sections of the population from the government. When the GRP shifts to the "soft" approach (peace negotiations), the NDF almost always outmaneuvers it in the politico-diplomatic game. In its carrot-and-stick approach, the government seems not to have figured that it is dealing not with a rabbit, but with a fox. While the government has kept changing its peace panel (with each president wanting his or her own appointees), the NDF has maintained the same group of negotiators, who are now much more experienced than their GRP counterparts.

In the ultimate analysis, however, the GRP side needs much more than just skill and imagination in the negotiations. For as long as the Philippine state does not shed its patrimonial oligarchic character, it will be extremely difficult for the GRP to achieve and maintain the moral high ground in the peace talks—or in its war against the CPP-NPA-NDF—and there will probably be nothing much it can do to outmaneuver, outfox, or, much less, defeat the CPP-NPA-NDF.

Among all the post-Marcos administrations, the Arroyo administration has fared the worst in dealing with the CPP-NPA-NDF. Randolph David has described Arroyo as "a patrimonial president" who practices "governance by patronage." Arroyo has been faulted for "giving health insurance, jobs, educational loans, and home lots" to secure votes (David 2004). Now enmeshed in scandals involving large-scale electoral fraud and illegal gambling, she, together with some close relatives, appears to have graduated into the big league. Since the fall of the corrupt Estrada, the Philippines has been widely seen as becoming even more corrupt. According to Transparency International, its score in the Corruption Perceptions Index (CPI) dropped from 2.9

in 2001 to 2.5 in 2005. The Philippines now ranks 117th to 125th out of 159 countries in the CPI scale, tied with the likes of Afghanistan and Uganda and inching closer to the levels of Cambodia and Myanmar. In a national survey conducted by Pulse Asia in June 2005, Filipinos rated the Arroyo administration as inferior in comparative performance to the Estrada administration in all twelve selected economic, social, and political concerns. Fifty-nine percent of Filipinos found that the Arroyo government's performance in fighting graft and corruption in government was worse than Estrada's. As the quintessence of post-authoritarian patronage, corruption, and patrimonialism, the Arroyo government has now become the chief recruiter of the CPP-NPA-NDF.

If the GRP-NDF peace talks were to remain largely a process involving the two sides, nothing much would come out of them. What kind of a final comprehensive peace pact, if one ever does materialize, could possibly result between a patrimonial oligarchic state and a Stalinist-Maoist force that seeks to establish a one-party dictatorship?

THE ROLE OF PEACE GROUPS

Not all is lost, however. There are third-party forces involved—peace movements, human-rights groups, sectoral movements, governments, intergovernmental organizations, and other international organizations that are willing to help the peace process.¹³ Moreover, there are apt to be individuals and groups within both the GRP and the CPP-NPA-NDF that are desirous of a just and lasting peace, and who at some point will not be constrained within the narrow frameworks of the GRP and the NDF. (The experience of the great internal debate and split of 1990-1993 demonstrates that the CPP-NPA-NDF monolith can very well crack under certain conditions.)

Peace and human-rights groups that are not aligned with the GRP or the CPP-NPA-NDF recognize that a just and lasting peace in the Philippines cannot be achieved for as long as millions of Filipinos wallow in poverty and misery, while wealth and power remain concentrated in the hands of a few. The attainment of peace cannot but involve radical political and social change, and the deepening of a formal democracy (a truncated formal democracy at that) into a more substantive one. The search for a just and enduring peace entails sharp and forceful, but nuanced, contestation with both the GRP and the CPP-NPA-NDF.

As mentioned earlier, various social scientists have characterized the Philippines as a patrimonial oligarchic state, an elite democracy, or a cacique democracy. Such characterizations of elite rule, however, do not present a complete picture of the country's politics. The Philippines is a "contested democracy," one in which an entrenched politico-economic elite promotes a truncated type of formal democracy ("elite democracy") while the poor and marginalized classes and communities, together with some sections of the middle and upper classes, struggle to turn this into a participatory and egalitarian democracy ("democracy from below"). The contestation is being fought in various spheres, such as civil society, elections, and governance. Indicative of this contestation are the vibrant mass movements of the poor and marginalized sectors (peasants, workers, urban poor, women, indigenous peoples, and so forth) as well as movements regarding particular issues (debt, consumer issues, human rights, peace, and others) that have pushed for significant political, economic, and social reforms. The "people power" uprisings of 1986 and 2001 were awesome manifestations of popular resistance not just to dictatorship and/or corruption but also to elite rule (for more on "contested democracy" see Quimpo 2005b).

The two forces engaged in the deadly struggle for political power—the government and the CPP-NPA-NDF—portray themselves as the representatives of genuine democracy. In truth, the two have poor democratic credentials. The government represents elite democracy. The CPP-NPA-NDF misrepresents itself as the vanguard of "democracy from below." The CPP-NPA-NDF further portrays "national democracy" or "people's democracy" as being truly a democracy of and for the broad masses of the Filipino people: the peasants, workers, and the middle class. As pointed out earlier, however, the experiences of the Communist Party-led states of Eastern Europe, China, North Korea, and others have shown that their "people's republics" and "people's democracies" turned into Stalinist one-party dictatorships. In the GRP-NDF talks, neither the GRP nor the CPP-NPA-NDF is really serious about working for substantive democracy. All that the government really cares about is asserting its sovereignty—that it alone has the supremacy of authority in the country. Meanwhile, in its politico-diplomatic efforts to help pave the way for an armed seizure of power, the CPP-NPA-NDF has become obsessed with the issue of belligerency.¹⁴

The behavior of the government and the CPP-NPA-NDF over the past two decades has shown that the GRP-NDF peace talks—and the

peace process as a whole—have served and continue to be an arena for contestation. The contestation, however, does not have to be limited only to, and between, the GRP and the CPP-NPA-NDF, or to the vested interests of the two parties. To peace and human-rights groups that are not aligned with either of the two, the GRP-NDF peace process can serve as an arena for countering the hegemony of the increasingly plunderous oligarchic elite and the *trapos* (traditional politicians) associated with them, and an arena too for countering the inroads and advances of a totalitarian force. It can serve as a vehicle for advocacy for political and social change, and for the transformation of the Philippines' formal, elite-dominated democracy into a more substantive and popular one.

The GRP, the NDF, or both would probably object to having representatives of non-aligned civil-society formations sitting in and participating directly in the talks proper. This, however, should not prove a hindrance to peace groups from airing their views on the peace process to the Philippine public and to the international audience, endorsing or criticizing positions taken by the GRP and the NDF, and putting forward their own positions and proposals for pushing the process forward. In this way, peace advocates can democratize the peace process, help make it much more transparent, and prevent its further erosion into a mere instrument of both state and revolution.

In pushing for radical and democratic change, peace advocates would have to work closely with reformists within government as well as international forces assisting in the peace process, and search for open-minded individuals within the CPP-NPA-NDF. There are many potential allies in government who can be relied on. Since the fall of Marcos, all the governments from Aquino to Arroyo have had “doves” in various departments and levels that have seen the need for substantial—not just cosmetic—economic, political, and social reforms. Most of the members of the GRP peace panels under various administrations have in fact been genuine state reformists who have taken the often frustrating and thankless task of pushing for a reform agenda within a patrimonial oligarchic state while fending off the relentless drive for “belligerency status” of Stalinist forces.

Both the government and the CPP-NPA-NDF will seek to keep the peace process largely a GRP-NDF affair with minimal participation from forces in Philippine civil society that are not aligned with either of the two. If such nonaligned forces manage to get into the picture, the two sides will attempt to use and manipulate them for their

respective ends. The Arroyo government wants peace advocates to endorse its weapon against the CPP-NPA-NDF: the “war on terror.” The CPP-NPA-NDF wants peace advocates to give support, credence, and legitimacy to its “belligerency status” instrument: CARHRIHL. The government will resist efforts to reform the patrimonial oligarchic state; the NDF will try to make such efforts conform to the ND line and program.

Peace advocates would have to look at the whole picture and not allow themselves to get caught up in the GRP’s and the CPP-NPA-NDF’s games, maneuvers, and tricks. The challenge for them is to create and expand the political space for the peace movement to make a difference. The focus of the peace movement’s endeavors should be a peace pact that provides mechanisms for effecting radical political and social change, and for transforming the country’s elite-dominated democracy into a popular, participatory, and egalitarian democracy. Such a pact will be the result not primarily of negotiations between the GRP and the CPP-NPA-NDF, but of pressure from third parties—peace groups in the Philippines, as well as foreign governments and international bodies—brought down to bear on these two intransigent and not-so-savory characters.✿

NOTES

1. In a civil armed conflict, a rebel force acquires belligerency status if the established government or the governments of other nations treat it as if it were a sovereign power. In the past, once a rebel force was recognized as having belligerency rights, neutral nations often abstained from supporting either the government or the rebels. In effect, this meant a diminution in the international standing of the government and a gain for the rebels. Currently, however, nations refrain from explicitly recognizing rebels as belligerents to maintain their flexibility in dealing with the parties in conflict.
2. Here and in succeeding passages about the CPP-NPA-NDF’s view and conduct vis-à-vis peace talks in the early 1990s, I write from personal recollection, having been a member of the CPP’s International Department and the NDF’s International Commission in 1987-1992.
3. The big debate within the CPP prior to its split in 1992-3 focused mainly on questions related to strategy and the vision of an alternative society. Among the issues debated was the role of peace negotiations in the CPP’s overall revolutionary strategy. For more about the discussions and debate within the CPP-NPA-NDF on peace talks, see Tupaz (a pseudonym that I used in the late 1980s and early 1990s) 1991 and Quimpo 1993.
4. In 1995, in fact, the Ramos government signed a peace agreement with military rebels belonging to the Rebolusyonaryong Alyansang Makabansa (RAM or

- Revolutionary Patriotic Alliance) and granted unconditional amnesty to 3,731 military officers and soldiers involved in the 1987 and 1989 coup attempts.
5. Sison's black-and-white distinction between an anti-human rights "reactionary" state and a pro-human rights "people's democratic state" completely misses the point about human rights, which are safeguards for a citizen's freedoms against the state's arbitrary use of power. A state may claim to be pro-human rights, but its practice could very well prove the opposite.
 6. Human rights conventions such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights are legally binding on signatory states. Nonstate entities such as revolutionary movements struggling to seize power sometimes declare their recognition of, and adherence to, these conventions. Instruments of the international humanitarian law of armed conflict such as the Geneva Conventions (specifically, common article 3) and Protocol II are binding on the warring parties in internal armed conflicts (see chapter 6, Dettter 2000). Adherence to the principles of human rights and international humanitarian law may enhance the chances of nonstate entities in gaining international recognition.
 7. For more about how Bayan Muna secured the People Power Coalition's endorsement, see Quimpo 2005a.
 8. The CPP, NPA, and Sison, in his individual capacity, are on the US-EU terrorist list. Neither the US nor the EU has been able to freeze any CPP-NPA assets for the simple reason that the CPP-NPA does not open or maintain bank accounts under its own name anywhere in the world and it would be very difficult for the US-EU to prove that accounts under the names of front persons actually belong to the CPP-NPA. The US-EU could only go after the personal assets of Sison, who, as a legal resident in the Netherlands, maintained a bank account under his own name.
 9. Even before the signing of CARHRIHL, the government's commission of human rights, various Philippine human rights groups (including those aligned with the CPP-NPA-NDF) and international human rights organizations had already been monitoring and taking action on complaints of violations of human rights and international humanitarian law. With the GRP and the NDF signing CARHRIHL as coequals and with Norway providing financial support to the JMC, CARHRIHL provides the NDF with politico-diplomatic advantages that the pre-CARHRIHL network on human rights work did not afford.
 10. See, for instance, the CPP-NDF statements on the peace talks and on human rights on the CPP website: <http://www.philippinerevolution.org/cgi-bin/statements/stmts.pl>.
 11. In contrast, many former NDs, now affiliated with various non-governmental organizations and people's organizations like T'bak (Activist), and left parties and groups like Akbayan, Partido ng Manggagawa (Worker's Party), Rebolusyonaryong Partido ng Manggagawa-Pilipinas (Revolutionary Worker's Party-Philippines) and Rebolusyonaryong Partido ng Manggagawa-Mindanao (Revolutionary Worker's Party-Mindanao), have endorsed the initiative of the Peace Advocates for Truth, Healing, and Justice (PATH) for an impartial investigation into the anti-DPA purges by a Truth Commission consisting of well-respected jurists.
 12. Article 4 of Part III of CARHRIHL states: "The persons liable for violations and abuses of human rights shall be subject to investigation and, if evidence warrants,

to prosecution and trial.” Nowhere, however, does CARHRIHL actually state that the NDF has the authority to arrest, investigate, prosecute and try human rights violators. In the GRP-NDF talks, the issue has been a very contentious one. The GRP Peace Secretariat has this account of the “backroom negotiations” in October 1998: “The GRP asserted its sole authority to arrest, prosecute and punish human rights violators in the implementation of the Agreement. The NDF, on the other hand, demanded that its judicial and legal processes be allowed to co-exist with that of the GRP. The GRP rejected this position as this demand not only impinges on the constitutional sovereignty of the Republic but . . . also institutionalizes the divisiveness caused by the armed conflict” (GPNP-CNN Secretariat 2004, xxvi). International human rights groups have long denounced the CPP-NPA-NDF’s “people’s courts” as a clear violation of international humanitarian law. According to the Lawyers Committee for Human Rights, the “people’s courts” do not meet the standards set in Protocol II since they are neither regularly constituted nor independent of the ruling authority, and they do not give the defendant the means to present an adequate defense (Lawyers Committee for Human Rights 1990, 15-16.)

13. Among the Philippine organizations and groups active in peace advocacy are the Gaston Z. Ortigas Peace Institute, Third World Studies Center, Sulong CARHRIHL, All-Out Peace Groups, Initiatives for International Dialogue, Institute for Popular Democracy, Philippine Rural Reconstruction Movement, and Task Force Detainees of the Philippines. Among the foreign or international entities supportive of the peace process are the government and some NGOs of Norway, European Parliament, International Alert, and World Council of Churches.
14. In the past several decades, a number of Third World revolutionary movements have entered into peace negotiations with the governments they sought to overthrow, and did eventually manage to get to power or draw very close to it. It would be very difficult, however, for the CPP-NPA-NDF to follow in their footsteps. The National Liberation Front (NLF), which, together with the North Vietnamese government, entered into negotiations with the US and the US-backed South Vietnamese government in the 1960s and 1970s, achieved military victory in 1975. The NLF, however, received massive military, economic, and political support from the Soviet bloc and China—something that the CPP-NPA-NDF can no longer avail itself of in the post-Cold War world. Peace talks in South Africa led to the dismantling of apartheid and the coming to power of the African National Congress (ANC). Since the signing of the peace accord in El Salvador in 1992, the Frente Farabundo Marti la Liberacion Nacional (Farabundo Marti National Liberation Front [FMLN]) has become the country’s main legal opposition party and has come close to winning in national elections on several occasions. The ANC and the FMLN managed to mobilize considerable popular support and enthusiasm for their positions in the peace negotiations. In the course of these talks, both of them broke decisively with Stalinism, embraced pluralist democracy, and ended their armed struggle even without having yet attained political power—actions that are anathema to the CPP-NPA-NDF.

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