

Commentary

Philippines: On the new Masbate incidents, here we go again - The rules of war or international humanitarian law (IHL)

Wednesday 29 March 2023, by [SANTOS Soliman, Jr](#) (Date first published: 28 March 2023).

The past week has seen a new set of Masbate incidents of the local communist armed conflict. This refers to the armed hostilities starting March 20 between the New People's Army (NPA) and the Philippine Army (PA)/ Philippine National Police (PNP) involving the use of explosive weapons near several countryside public elementary and secondary schools that have traumatized and adversely affected such schooling in the seven municipalities of Dimasalang, Placer, Cawayan, Esperanza, Cataingan, Uson and Pio V. Corpuz. News reports indicate at least 55,199 students, 2,815 teachers and 140 schools constrained to shift their classes from in-person to modular distance learning to ensure their safety from the crossfire and cross-explosions.

The NPA has admitted to launching coordinated harassment operations in Placer and Domasalang in commemoration of the NPA 54th anniversary on March 29, as well as undertaking a successful active defense maneuver in Cawayan. The latter incident resulted in the NPA killing of Cpl. Antonio Parreno Jr. of the PA 2nd Infantry Battalion, among several PA and PNP casualties claimed by the NPA-Masbate Jose Rapsing Command. The PA has accused the NPA of detonating improvised explosive devices (IEDs) near populated areas such as schools. The NPA says their tactical offensives were not near but of some distance from the schools. It has instead accused the soldiers of retreating to those school grounds (thereby using the school children as human shields) and indiscriminately firing their weapons including a rifle grenade inside those grounds.

The propaganda war by both sides against each other continues to intensify parallel to their armed hostilities. They cannot be relied on for the truth because this is the proverbial first casualty in war, where propaganda has become even more important than the actual military score. Ordinarily, this would be an occasion for some sectors to call for resumption of peace negotiations (but conspicuously not also calling for an accompanying ceasefire) between the government and the National Democratic Front of the Philippines (NDFP) which represents the Communist Party of the Philippines (CPP) and its military arm the NPA. But we have to get real. At this point, both sides simply do not want peace talks, much less a ceasefire. The new Masbate incidents are the best evidence of this. Both sides believe (or say) that they are winning their war. The problem is that this could go on for another 54 years. But at what cost to the country and to the people purportedly being served? What then is to be done in a situation of continuing local communist armed conflict?

Okay, continue fighting if you have to. But do so "in good faith" avowed compliance with the rules of war or international humanitarian law (IHL), "to ensure the protection of non-combatants and reduce the impact of the armed conflict on communities found in conflict areas." Following the rules of war is one of the paths to peace, because it somehow helps build trust, confidence and goodwill as well as helps "create a favorable climate for peace negotiations" when the conditions and time for this comes. After all, both sides already have common ground in their avowed adherence to IHL and even human rights. Not only are there the international treaties, instruments and customary rules of

IHL and human rights that bind both sides, but there is also their own 1998 Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL). This instrument has several provisions particularly relevant to the new Masbate incidents.

Thus, the CARHRIHL provides in Part III, Article 2, no. 15: “The right [of the people] not to be subjected to forced evacuations, food and other forms of economic blockades and indiscriminate bombings, shellings, strafing, gunfire and the use of landmines.” In Part IV, Article 4, no. 4: “... They [civilians] shall likewise be protected against indiscriminate aerial bombardment, strafing, artillery fire, mortar fire, arson, bulldozing and other similar forms of destroying lives and property, from the use of explosives as well as the stockpiling near or in their midst, and the use of chemical and biological weapons.” And in Part IV, Article 12: “Civilian population shall have the right to be protected against the risk and dangers posed by the presence of military camps in urban centers and other populated areas.” In recent years, there has also been the 2022 Dublin ***Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*** which the Philippines signed on to. Explosive weapons include IEDs and landmines as well as explosive ordnance such as mortars, rockets, artillery shells and aircraft bombs. These weapons use blast and fragmentation that kill and injure people in the area around the point of detonation.

Further relevant to the new Masbate incidents is Republic Act No. 11188, the *Special Protection of Children in Situations of Armed Conflict Act* which took effect in early 2019. It declares “Children as Zones of Peace.” It defines *Zone of peace* as “a site with sacred, religious, historic, educational, cultural, geographical or environmental importance, which is protected and preserved by its own community. It is not merely a ‘Demilitarized Zone,’ but a sanctuary that operates within ethical principles of nonviolence, free from weapons, acts of violence, injustice and environmental degradation. The recognition of the Zone of Peace expresses commitments on the part of its community, governmental authority and, if appropriate, religious leadership to preserve the peaceful integrity of the designated site. Its custodians, members, participants and visitors exemplify mutual respect and nonviolent behavior while on site, and share their resources for furthering peace and cooperation.” R.A. 11188 also specifically prohibits “attacks on schools” as among Grave Child Rights Violations (GRCVs). *Attacks* “refer to occupation, shelling or targeting for propaganda of schools...; causing damage to such places, or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of educational activities...” Targeting for propaganda of schools applies to both warring sides

In short, there are enough rules of war to comply with but unfortunately the track record of both sides in dealing with IHL and human rights violations of their own side and of the other side does not inspire confidence. This is because such violations have become the grist for a primordial propaganda war waged by the partisans of both sides. On one hand, the government has prosecuted cases for violation of R.A. 9851 (the *Philippine Act on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity*) only against various rebels but not against its own soldiers in its legal offensive that partakes of weaponizing the law. On the other hand, the CPP-NPA-NDFP has not kept some notable promises of investigating, prosecuting and trying its own forces for possible, even admitted, violations. It will be recalled that on 11 June 2021, the NDFP through no less than its leading personalities, Luis Jalandoni and Julieta de Lima (now widow of the late Jose Maria Sison), “assert[ed] its authority and duty to investigate” the NPA-admitted Masbate landmining incident of 6 June 2021 that resulted in the killing (2) and wounding (1) of three Absalon family members, notably the killed FEU varsity football player Kieth Absalon. It is now more than 1 year and 9 months since then but there has been no publicly revealed CPP-NPA-NDFP investigation report or result thereof. Instead now, come the new Masbate incidents, the NPA-Masbate has said that it is “ready to investigate, take responsibility and criticize itself if there is an error.” This sounds

somewhat hollow, given that nothing appears to have come out of the NDFP's promised investigation of the earlier 6 June 2021 incident.

Because the warring parties cannot be trusted to honestly deal with IHL and human rights violations, even in their simple reporting and initial investigation, it is crucial that independent, competent and credible mechanisms for this purpose are developed and supported. Of course, the

International Committee of the Red Cross (ICRC) is there as one independent, competent and credible mechanism but it has its own constraints with confidentiality and publicity protocols. One possible mechanism or model is the however still unimplemented 2021 Memorandum of Understanding between the Commission on Human Rights (CHR) and the Philippine Campaign to Ban Landmines (PCBL) to address the issue of explosive weapons (not just landmines) involving both state actors and non-state armed groups through humanitarian action such as verification missions and other mine action (explosive ordnance education, relevant IHL and human rights education, capacity-building, research and advocacy). Independent civil society has both a stake and an important role to play when it comes to the country's matters of war and peace.

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Naga City, 28 March 2023

P.S.

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