Philippines: A Remarkable 2022 RTC Resolution on the CPP-NPA: Not Terrorist under the Repealed Old Anti-Terrorism Law

Sunday 19 January 2025, by SANTOS Soliman, Jr (Date first published: 19 January 2025).

We refer to the remarkable unappealed and therefore final Resolution dated 21 September 2022 by Regional Trial Court (RTC) Manila Branch 19 Judge Marlo A. Magdoza-Malagar in Civil Case No. R-MNL-18-00925-CV (*Department of Justice vs. CPP and NPA*) [hereinafter the "Judge Magdoza-Malagar Resolution"] which dismissed the Department of Justice Petition to proscribe or declare the Communist Party of the Philippines-New People's Army as terrorist groups under Section 17 of the Republic Act No. 9372 (the Human Security Act of 2007, or "HSA 2007" for short),[1] even as this was already repealed by R.A. 11479 (the Anti-Terrorism Act of 2020, or "ATA 2020" for short).

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One may agree or disagree with the reasoning and conclusion of **the Judge Magdoza-Malagar Resolution** in dismissing the DOJ Petition, but either way it is a remarkable judicial decision, at least for case study and legal debate. The long Resolution of 135 pages devotes considerable space and research that covers much topical ground, as shown in **its following outline/ table of contents**:

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Certainly, resolving the issue of whether the CPP-NPA are terrorist organizations must necessarily entail a sufficiently deep sense of its history, its inner workings, its strategy and tactics, and its operational esp. military record, in short, the salient facts about the CPP-NPA, aside of course from the applicable law and jurisprudence on the CPP-NPA, on rebellion and on terrorism.

The evidence in the case was entirely provided by the petitioner DOJ through Senior Assistant State Prosecutor Peter L. Ong. No one, not even the National Union of Peoples' Lawyers (NUPL), appeared for the respondents CPP and NPA. No evidence was presented on their behalf. But a significant portion of the voluminous evidence (Exhibit A up to at least Exh. JJJJJJJ-11) presented by the DOJ were actually CPP-NPA documents or materials, aside from 17 witnesses including several "insider witnesses" who were former CPP-NPA cadres.

Interestingly, Judge Magdoza-Malagar was obliged to proceed with hearing this HSA 2007 case

despite that law's repeal by ATA 2020 because of the latter's Section 57 "saving clause" that "pending actions" under HSA 2007 "prior to its repeal shall remain valid and effective." For his part, petitioner DOJ's counsel SASP Ong appears to have gone along and not opted to withdraw his Petition (given a new anti-terrorism law), we can only surmise because he must have thought it would be a "slam dunk" case for the petitioner, given that the respondents CPP and NPA had already been declared in default after summons by publication. The case was not an academic one (even with the repeal of HSA 2007) because if the Petition for proscription of the CPP-NPA as terrorist organizations under HSA 2007 was granted, the CPP-NPA would have been considered as "designated persons" under Section 3(e)(2) of the unrepealed related law RA 10168, the Terrorism Financing Prevention and Suppression Act ("TFPSA"). In determining whether or not the CPP-NPA was "terrorist," the Court/ Judge Magdoza-Malagar utilized the definitions of "terrorist acts" and "terrorist groups" under HSA 2007, not ATA 2020.

Assessing the CPP-NPA under Section 17 of HSA 2007

After an extensive discussion on the History of the CPP-NPA (part IV), its Inner Workings (part V), its Atrocities Committed (part VI), and a Survey of Jurisprudence on the CPP-NPA (part VII) in pp. 23-109 (or 87 out of its 135 pages) the Judge Magdoza-Malagar Resolution finally proceeds to its most crucial 20 pages part VIII on "Assessing the CPP-NPA under Section 17 of HSA 2007" (pp. 109-129). The Resolution examined the CPP-NPA (and the petitioner DOJ's evidence) under "the **following definitional elements of a terrorist organization**" in the HSA 2007's Section 17:

1. An organization, association or group of persons

2. Organized for the purpose of engaging in terrorism; or,

3. if not so organized –

i. actually uses acts enumerated in the Act in order to terrorize; or,

ii. actually uses acts to sow and create a condition of widespread and extraordinary fear and panic among the populace

4. With the purpose of coercing the government to give in to an unlawful demand.

HSA 2007's Section 3 defines terrorism as follows:

SEC. 3. *Terrorism* – Any person who commits an act punishable under any of the following provisions of the Revised Penal Code:

a. Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters);

b. Article 134 (Rebellion or Insurrection);

c. Article 134-a (Coup d'Etat), including acts committed by private persons;

d. Article 248 (Murder)

e. Article 267 (Kidnapping and Serious Illegal Detention)

f. Art. 324 (Crimes Involving Destruction),

or under

(1) Presidential Decree No. 1613 (The Law on Arson);

(2) Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);

(3) Republic Act No. 5207 (Atomic Energy Regulatory and Liability Act of 1968);

(4) Republic Act No. 6235 (Anti-Hijacking Law);

(5) Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974); and

(6) Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)

thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism…

The Judge Magdoza-Malagar Resolution easily and quickly established the aforesaid **first element** that the CPP-NPA is "an organization, association or group of persons." On the **second element** of **"Organized for the purpose of engaging in terrorism,"** the Resolution made reference to "the second document which is attached to its Constitution of the CPP and therefore forming part thereof, *i.e.,* "The Program for a People's Democratic Revolution" and "Our Specific Program" *(Exhibits HHHHHH71-85; 86-95).*" After quoting its salient portions, "The document summarizes the foregoing into a Ten-Point Program, as follows:

1. Overthrow the Forces of US Imperialist and Feudal Oppression

2. Establish a People's Democratic State and a Coalition Government

3. Fight for National Unity and Democratic Rights

4. Uphold the Principle of Democratic Centralism

5. Build and Cherish the New People's Army

6. Solve the Land Problem

7. Carry out National Industrialization

8. Promote a National Scientific and Mass Culture

9. Respect the Right to Self-Determination of the Bangsamoro and Other National Minorities

10. Adopt an Active and Independent Foreign Policy"

The Resolution then proceeds to conclude with a couple of judgmental (pun intended) words that "A perusal of **the foregoing Program, consisting of lofty ideals readily shows that the CPP-NPA is organized or exists, not for the purpose** [of] **engaging in terrorism**." (p. 114, boldface and underscoring supplied) As for the CPP's avowed main form of armed struggle waged through its NPA, the Resolution distinguishes this "means" from "purpose" or ends this way:

Be that as it may, while "armed struggle" with the "violence" that necessarily accompanies it, is indubitably the approved "means" to achieve the CPP-NPA's purpose, "means", is not synonymous with "purpose." Stated otherwise, "armed struggle" is only a "means" to achieve the CPP's purpose; it is not the "purpose" of the creation of the CPP.

After finding "that the CPP-NPA is organized or exists, not for the purpose engaging in terrorism," the Judge Magdoza-Malagar Resolution proceeded to determine the aforesaid **third element** which is **"whether or not the respondent organizations have committed acts which qualify as 'terrorist acts'."** For this purpose, the Resolution "confined the scope of its assessment to the following nine (9) incidents of atrocities allegedly committed by members of the CPP-NPA against civilians as have been testified to by the petitioner's witnesses:

i. The 31 December 2019 killing of Bontola Mansinugdan in Agusan del Sur;

ii. The 19 March 2020 killing of Datu Astudillo and Zaldy Ibañez in Sitio Inadan, Barangay Magroyong, San Miguel, Surigao del Sur;

iii. The 04 October 2020 ambush of Datu Jumar Bucales and company at Sitio Mamprasanon, Barangay Banahao, Lianga, Surigao del Sur;

iv. The 06 July 2020 killing of Datu Jomar Engayas in Sitio Sangay, Barangay Libas-sud, San Miguel, Surigao del Sur;

v. The 16 October 2020 failed attempt to kill DepEd Teacher Eli Apacible, at Purok Hitaon, Barangay Awasian, Tandag City, Surigao del Sur;

vi. The 13 August 2020 killing of 70-year-old Datu Benedicto Dinoy,in Dumalaguing Village, Impasugong, Bukidnon;

vii. The 28 May 2020 burning of chapel and residential houses, in Barangay Limunda, Opol, Misamis Oriental;

viii. The 30 May 2019 abduction of seven civilians, including Ryard Badiang who was later beheaded, in Barangay Maitum, Tandag City, Surigao del Sur; and,

ix. The 21 July 2020 killing of Datu Saidor Balansi, at Sitio KM 18, Barangay Besigan, Cagayan de Oro City.

These in incidents from December 2019 to July 2020 all occurred during the period of effectivity of HSA 2007. They all constitute what are referred to as "predicate crimes" that are "defined under the Revised Penal Code and Other Special Penal Laws and enumerated in Section 3 of HSA 2003 as comprising terrorism, particularly the crimes of rebellion, murder, kidnapping, abduction, arson and serious illegal detention." The Resolution then concludes a brief discussion on "Authorship of the acts" with this finding:

Some of the eyewitnesses base their identification on "personal knowledge." They claim to be former members of the NPA and that they personally know the perpetrators. If this is true, the next query is – *Are these atrocities committed pursuant to an official party directive? Are these acts considered official acts of the CPP-NPA?* **None of the evidence presented by the petitioner gives any impression that these incidents fall within the category of acts officially sanctioned by the respondent organizations**. (p. 115, boldface supplied)

But this last finding is not explained or shown in terms of specific evidentiary basis.

The Judge Magdoza-Malagar Resolution then proceeds to discuss **the second aspect of the aforesaid third element**, i.e. that "**The acts are committed to sow and create a condition of widespread and extraordinary fear and panic among the populace.**" After another brief discussion thereof, the Resolution makes this finding:

After consideration, this Court finds **none of the (9) incidents of atrocities which are allegedly committed by the NPA against civilians can be said as having caused "widespread and extraordinary fear and panic" among the Philippine populace**. While the Court does not dismiss or minimize the loss of lives and property, **these incidents can only be characterized as "pocket and sporadic occurrences" in limited and scattered areas of the country**, particularly in specific areas in Mindanao, *i.e.,* Surigao del Sur, Cagayan de Oro City, Misamis Oriental, Bukidnon, and Agusan del Sur. **Any fear and panic these incidents may have caused are confined to the communities where they have occurred**. In other words, **these incidents have not reached "widespread" or "extraordinary" proportions contemplated under Section 3 and 17 of HSA 2007.** (p. 116, boldface supplied)

The Resolution then touches briefly on "Guerrilla Warfare" as "the CPP-NPA's chosen battle strategy… within the context of a protracted people's war." It then makes this interesting, if debatable, pronouncement:

Terrorism being identified with a disquieting display of violence meant to cause maximum shock and awe is reflected in the definitional requirements in the HSA, particularly in Section 3's usage of the words "extraordinary" and "widespread." This effectively precludes "guerrilla warfare" or small-time warfare… An important distinction has been identified by experts: **guerrilla warfare is not synonymous with terrorism.** *(Gus Martin, "Understanding Terrorism, Challenges, Perspectives and Issues", 4th Edition, Sage Publications, Inc., (2013), pp. 35-36).*

Indeed, the 9 incidents of atrocities fall within the category of small-time, "hit-and-run", sporadic acts of violence with no specified victims or targets. (p. 117)

Then, the Resolution comes to the aforesaid **fourth element** which is whether "**The acts are committed to coerce the government to give in to an unlawful demand.**" Here follows its salient finding discussion:

… **No evidence has been submitted establishing that any of the nine (9) incidents of atrocities committed by the CPP-NPA against civilians has been preceded or followed by any demand for peace negotiation with the government. Even if such demand is assumed to be an implicit motive of these disparate incidents, still, it can hardly be said that a demand for a peace negotiation is an unlawful demand.** A demand for a peace negotiation or peace talks or cessation of hostilities is, on its face, a valid, lawful demand. Any agenda that may lurk behind such "demand" or may be attributed to it, does not make a demand for peace negotiations any less lawful. Moreover, to expect the Court to take into account the hidden motives and intentions of parties would entail it to make a determination based on what may otherwise be purely a state of mind, unsupported by evidence.

Even if the Court will infer the CPP-NPA's demand from the "Ten Point Program" [see above quoted] annexed to the 2016 Constitution of the Communist Party of the Philippines, Petitioner has failed to show how any of [the ten points] constitutes an "unlawful demand" …

Some items in the foregoing Ten-Point Program of the CPP, at face value, are reasonable aspirations of any civilized society. **Any demand that the CPP-NPA may make on the government along**

the foregoing "goals" that comprise its Program remains to be established as an unlawful demand. (pp. 118-119, boldface supplied)

Other Alleged CPP-NPA Atrocities Assessed Under HSA 2007

Aside from the above-mentioned (9) incidents of alleged CPP-NPA atrocities against civilians, the Judge Magdoza-Malagar Resolution also assessed under the prism of HSA 2007 certain other alleged atrocities of the CPP-NPA, as follows:

[1] **Internal Purging, or Anti-Infiltration Campaigns**. These referred to three (3) particular internal purging campaigns of the CPP-NPA: (a) Purging in Cebu Province; (b) Purgng in Cavinti, Laguna and Mauban Quezon; and (c) Purging in Leyte. The Resolution made this finding:

That the anti-infiltration campaigns did happen cannot be denied. The well-documented accounts of the discovery of mass graves, testimonies of eyewitnesses who were present during these incidents, and even admissions of the executioners, former CPP members and high-ranking officials were more than sufficient proof of internal purgings within the movement. There was also ample showing that these executions in Cebu, Leyte, Cavinti (Laguna) and Mauban (Quezon) were carried out upon direct orders of the Central Committee.That these were official acts of the respondent organizations was evidenced by the manner of their execution – they were not random but systematic acts, following a prescribed procedure and pointing to a centralized party policy.

Be that as it may, underlying the purging incidents was the secrecy that characterized their implementation. As narrated by witnesses, the arrest, interrogation and execution of suspected infiltrators were carried out clandestinely, away from prying eyes of the public. Excepting those with firsthand knowledge, it was not until many years later that these incidents came to light. The number of persons executed during the purging of the CPP-NPA was staggering but the secrecy of these executions precluded the likelihood of these incidents causing *"widespread and extraordinary fear and panic among the populace."* Equally important, petitioner failed to establish that these purging incidents were committed in order to coerce the government to give in to a demand, much less, an unlawful demand. (p. 119)

In short, the Resolution believed that this Internal Purging of the CPP-NPA cannot be characterized as terrorism or acts of terrorism under the HSA 2007.

[2] **Attacks Against Military Personnel**. These referred to the voluminous military- and police-documented twelve (12) NPA attacks against units of the Armed Forces of the Philippines (AFP), Philippine National Police (PNP) and their paramilitary auxiliary armed forces, in Mindanao, Visayas and Luzon all in 2017, namely:

(a) The 8 March 2017 ambush of PNP personnel, at BarangaySibayan, Bansalan, Davao Del Sur

(b) The 29 April 2017 attack on Torre Lorenzo Development Corporation and the plastic and box warehouses of Lapanday Foods Corporation, at Barangay Mandug, Buhangin District, Davao City

(c) The 19 July 2017 ambush of Presidential Security Group personnel, at Purok 3, Barangay Katipunan, Arakan, North Cotabato

(d) The 21 July 2017 ambush of PNP personnel, at Sitio Tambuanan, Barangay Magsaysay, Guihulngan City, Negros Oriental

(e) The 14 September 2017 attack on the solar farm of Helios Solar Energy Corporation, at Purok Sandra, Barangay Tinampa-an, Cadiz City, Negros Occidental

(f) The 28 September 2017 burning of ten *(10)* heavy equipment owned by E.M. Cuerpo, Inc., at the Bicol International Airport, Barangay Alobo, Daraga, Albay, and the simultaneous attacks against the Philippine Army Patrol Base Detachment, at Barangay Alobo, Daraga, Albay, and the PNP 2nd Manuever Platoon of Albay PPSC, at Barangay Bascaran, Daraga, Albay

(g) The 3 October 2017 ambush of PNP personnel and civilians, at Sitio Buta, Barangay Caliling, Cauayan, Negros Occidental

(h) The 9 November 2017 ambush of PNP personnel at Km. 28 of the Cagayan De Oro-Dominorog-Kalilangan Road, Barangay Tikalaan,Talakag, Bukidnon

(i) The 13 November 2017 kidnapping of two (2) PNP personnel at Barangay Bad-as, Placer, Surigao Del Norte

(j) The 2 December 2017 ambush of PNP personnel, at Sitio Binuang, Barangay Daguit, Labo, Camarines Norte

(k) The 3 December 2017 attack of the Municipal Police Station, at Binuangan, Misamis Oriental

(l) The 17 December 2017 ambush of personnel of the 20th Infantry Battalion, Philippine Army, who were conducting humanitarian assistance and disaster response operations to victims of tropical storm "Urduja", at Barangay Hinagoyonan, Catubig, Northern Samar

The Judge Magdoza-Malagar Resolution eventually made these overall and related findings thereon:

Petitioner has also introduced documentary evidence of the respondent organizations' armed encounters with the military and the police. The Court notes that said exhibits have not been supported by testimonies of actual eyewitnesses to the encounters. Bereft of any witness account, these documents can only be classified as hearsay, and therefore with no probative value insofar as they are offered to prove the incidents they refer to. Moreover, even if these incidents have indeed happened, they can only form part of the violence that is naturally appurtenant to being "at war" with enemy forces, and all the violence and evils that war brings with it.

Mention has likewise been made in the testimonies of witnesses Cruz and Celiz regarding violence resulting to injuries and destruction of property committed in the course of the CPP-NPA's collection of revolutionary taxes. Mention has been made only in passing, in the course of these witnesses' testimonies, and with no accompanying details – the date and manner of their execution and the names of the victims. On these grounds, said documents are therefore insufficient evidence of said incidents.

More importantly, these incidents transpired before the enactment of either HSA 2007 or the ATA 2020 which defined and penalized terrorism. They cannot now be utilized to prove the "terrorist character" of respondent organizations

[3] **The 1971 Plaza Miranda Bombing**. The Judge Magdoza-Malagar Resolution stated, among others, that "For a time, the [Marcos Sr.] administration is the primary suspect of having authored the bombing as a ploy to lay the groundwork for the declaration of martial law a year later. Many years later, the CPP admits responsibility for the incident." (pp. 99-100) It further stated relevantly to the case:

Perhaps, the only incident that would come close to a "terrorist act" by the CPP as defined in Section 3 of HSA 2007, had it been committed during the effectivity of said law, would be the Plaza Miranda bombing of 1971. While the number of those who were killed or injured in the blast was minimal, the high profile personalities involved, the audacity or the daring with which the bombing was executed – all of which were caught on camera and the fact that the incident was major "news" all over the archipelago, had qualified the incident as that which had achieved extraordinary proportions as to cause widespread and extraordinary fear and panic among the populace.

x x x

… However, just like the purging incidents, the Plaza Miranda bombing had occurred prior to the HSA 2007 and therefore cannot qualify as a terrorist act. Classifying these acts as "terrorist acts" that will in turn qualify the CPP-NPA as terrorist organization would lead the Court to tread on constitutionally-infirm ground – that of applying provisions of a penal law to acts committed prior to the law's enactment. (pp. 120-121)

Terrorism, Terrorist Acts, Political Crimes and Rebellion. The Judge Magdoza-Malagar Resolution finally proceeded to interestingly but also debatably discuss these inter-related subjects. With regards to the afore-mentioned nine (9) incidents of alleged CPP-NPA atrocities against civilians, the Resolution stated:

The nine (9) incidents of atrocities that are presented by the petitioner before this Court as evidence that respondent organizations are terrorist organizations are presently the subject of criminal cases filed and pending before the regular courts. Among the documents identified by Police Officer Al F. Paglinawan of the Directorate for Investigation and Detective Management (DIDM) are the Informations or Resolutions of the prosecution against the suspected perpetrators. A reading of these showed that the charges are limited to regular crimes of murder, arson, physical injuries and kidnapping. There is no allegation in the Informations or in the Resolutions of the public prosecutors that the perpetrators have committed these acts as members of the CPP-NPA. In instances when said allegation does appear, the same is not considered in the characterization of the crime finally charged. In other words, the perpetrators of the nine (9) incidents of atrocities are charged only with the commission of regular crime(s).

That the perpetrators are charged only as ordinary individual(s), and not as rebels or as member(s) of the CPP-NPA, much less, as terrorists, is significant as it erases from the State's indictment any allegation that could have classified these acts as "official acts" of members of the CPP-NPA. In the absence of such qualification, these acts can only be attributed to regular or ordinary persons committing regular criminal acts in their personal, private capacity. It may not be remiss to emphasize the distinction between acts committed in the course of the "armed struggle" to achieve the political purpose of the respondent organizations and the random acts of violence committed by individual-members without the sanction of the organization of which they are members. (p. 121)

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The task of prosecuting an accused which includes deciding the offense to charge him or her falls on the prosecutorial arm of the government. The Courts can only defer to this prerogative of the prosecution. Thus, unless raised by the defense, the trial court can only make a determination of whether a "criminal act is committed in furtherance of rebellion" if it is alleged in the Information that the accused is a rebel and has committed the 'crimes" pursuant to rebellion. In the present case, the prosecution's decision to charge the perpetrators in these nine (9) incidents with ordinary criminal charges totally devoid of political context effectively renders these incidents weak evidence against herein respondents in the instant Petition. The State is now precluded from qualifying these

acts as acts committed pursuant to the rebellion being waged by the CPP-NPA against it because by its nature, a terrorist organization can only commit terrorist acts through its individual members. This being said, this Court goes further to state that classifying what would be considered political crimes as terrorist acts, does not take them outside the ambit of "political crimes." (p. 124)

After such further discussion which reaffirmed "that the CPP-NPA is a political organization with political goals," the Resolution then made a pronouncement that **"Political Crimes are not Terrorist Acts"** (p. 124), also citing ***Lagman vs. Medialdia***[2] for mainly its differentiation between rebellion and terrorism as to purposes, though the Resolution somewhat overlooked the ruling therein that "there is nothing in Art. 134 of the Revised Penal Code [for rebellion] and RA 9372 [or HSA 2007 for terrorism] which states that rebellion and terrorism are mutually exclusive of each other or that they cannot co-exist together." The Resolution then finally pronounced:

Under the foregoing, this Court finds that the acts of the respondent organizations [CPP-NPA] – 1) have been committed to achieve a political purpose; and, 2) have been primarily directed at State agents, and not against civilians. Not having met the stringent requirements of HSA of 2007, the nine (9) acts of atrocities committed by the NPA can only qualify as incidents of "rebellion." (pp. 128-129)

Conclusion. This last part X (pp. 133-135) of the Judge Magdoza-Malagar Resolution dealt with the question "*How then must the State react to dissension from its citizens?*" The context of this question is the CPP-led rebellion which "is rooted in a discontent of the existing order which is perceived to be unjust and inequitable to the majority, and favorable to the wealthy, ruling few. Rebels are usually compelled to resort to violence simply for lack of avenues to be heard, and in order to be in a position to significantly change the *status quo*." (p. 133) In the face of this "unflinching" and "uncompromising" rebellion or armed revolution, the Resolution counter-poses this line of march, which **may well be its wisest pronouncement**, even if rebellion is somewhat conflated here with terrorism:

…The government can, while uncompromising in its fight against the Communism, regard the CPP's act of taking the cudgels of the marginalized – as an impetus to better address these sectors' concerns. If our people should see that reforms could be initiated, and carried out from within, the CPP's call to arms to overthrow the government, will indubitably, be unheeded.

Efforts on the part of the present government to counter insurgency should include respect for the right to dissent, to due process and to the rule of law. Just as the respondent organizations are uncompromising in their ideals, so must the government be uncompromising in safeguarding the Constitution it is sworn to uphold.…

As to the view that an observance of the dissidents' constitutional rights will jeopardize the security of the State, the exhortation is that "the existence of danger is never a justification for courts to tamper with the fundamental rights expressly granted by the Constitution.…

The recognition of the State that the fight against terrorism does not only entail meeting force with force but rather necessitates a comprehensive approach comprising of political, economic, diplomatic, military and legal means duly taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities, is heartening. Indeed, measures that seek to include conflict management and post-conflict peace-building, addressing the roots of conflict by building state capacity and promoting equitable economic development will hopefully stamp out terrorism and eradicate its seeds (*see Declaration of Policy, R.A.9372*).

Nothing is better attested by present realties than that terrorism dos not flourish in a healthy,

vibrant democracy.

Finally, the Judge Magdoza-Malagar Resolution DISMISSED (p. 135) the DOJ Petition to proscribe the CPP-NPA as terrorist organizations under HSA 2007.

CPP-NPA Reaction to the Judge Magdoza-Malagar Resolution

The CPP welcomed and even endorsed the Judge Magdoza-Malagar Resolution in a statement on the day right after the Resolution was issued. CPP Chief Information Officer Marco Valbuena, issued this likewise remarkable statement "On the Manila RTC dismissal of terrorist proscription against the CPP and NPA" on September 22, 2022[3], quoted here in full: (underscorings supplied)

At the outset, let me reiterate that the Communist Party of the Philippines (CPP) is governed by the laws of the People's Democratic Government and cannot be placed under the laws, courts or legal processes of the reactionary government. The CPP does not recognize the case filed by the Department of Justice (DOJ) in the Manila Regional Trial Court (RTC) proscribing the Party and the New People's Army (NPA) as terrorists under the Human Security Act (HSA) of 2007, the precursor of the Anti-Terrorism Law of 2020, and did not participate in the proceedings.

Having stated that, we welcome the September 21, 2022 decision of the Manila RTC dismissing the said petition of the DOJ in which it failed to establish any basis for declaring the CPP and NPA as terrorists. The decision comes as a pleasant surprise in the face of the relentless efforts of the Armed Forces of the Philippines (AFP) and the National Task Force (NTF)-Elcac to stick the "terrorist" label against the CPP, as well as other patriotic and democratic forces. The decision can be considered as a legal pushback by some members of the judiciary against the NTF-Elcac which has been aggressively putting every state agency under its command in the name of "anti-terrorism," as well as against the so-called Inter-Agency Committee on Legal Action (IACLA) that has been involved in pushing courts to issue defective search and arrest warrants, planting evidence and filing false charges against activists, as well as revolutionaries.

On initial reading, we found the 135-page decision penned by Judge Marlo Magdoza-Malagar reasonable and fair. We see that the judge took a historical point-of-view and situated the revolutionary movement from the perspective of the Filipino people's struggle against oppression and exploitation. It is gratifying that the judge took effort to read the constitution and program of the CPP, the provisions of which she declared to be "reasonable aspirations of any civilized society." We urge everyone, lawyers, judges, academics, teachers, students, journalists, workers, peasants and all other sectors, to follow the example of Judge Malagar and read and study for yourselves the constitution and program of the CPP.

We will make a more comprehensive review of the decision in the coming days. At this point, however, it is important to underscore how the decision concluded that the CPP and NPA are not terrorists, rather, are waging armed resistance with clear political aims and directs its attacks, not against civilians, but against agents of the reactionary state represented by the Government of the Republic of the Philippines (GRP). Indeed, we aver that the CPP and NPA are revolutionary organizations that advances the Filipino people's aspirations for genuine national freedom and democracy and draw its strength from the support of the broad masses, especially, peasants and workers.

Certainly, there are far-reaching legal and political implications to this decision. The military and police have long been using the HSA and the ATL and the proscription against the CPP and NPA to curtail the rights and harass the leaders and members of legal democratic organizations by

implicating them to the CPP and NPA. The “anti-terrorism” dogma is being used to silence and suppress the people’s voice, legitimate resistance and grievances to widespread social ills.

With the decision of the Manila RTC, I think the NTF-Elcac is now legally obliged to zip its big mouth and stop its terrorist-branding against the CPP and NPA, and its campaign of suppression against workers unions, peasant associations and the wide range of patriotic and democratic organizations. Otherwise, the NTF-Elcac will probably face legal challenges.

The decision also can serve as basis for Filipinos and their friends in the United States, in Australia, New Zealand and the European Union to push for the removal of the CPP and NPA from the “list of terrorist organizations” that are unjustly being maintained by their governments. It will bolster, in particular, the demand of the American people for the US government to stop providing arms and funding to the AFP that is notorious for human rights abuses.

Members of the CPP and the NPA must continue to keep their guards up, remain militant and determined to fight the fascist onslaught and terrorism of AFP, and advance the revolutionary cause of the Filipino people. In fact, the decision of the Manila RTC will not have much positive implication on the political and legal standing of the CPP and NPA, especially under the Marcos regime, whose officers have declared the aim to crushing the CPP and NPA. We anticipate the militarist-minded officers of the AFP, as well as the NTF-Elcac, to disregard the decision of the Manila RTC and continue with its terrorist tagging, its anti-people counter-insurgency drive and campaign of suppression.

In the cities, the NTF-Elcac and state agents will likely push with its attacks against workers’ unions to serve the interests of big capitalists, as well as against other forms organizations. In the countryside, the AFP continues to mount vicious attacks against peasant communities in their effort to suppress the peasant masses and pave the way for the entry of mining companies and expansion of plantations. Thus, the NPA must continue with its efforts to expand its territories, recruit more and more Red fighters, wage widespread antifeudal campaigns, and launch tactical offensives to defend the peasant masses and advance the overall national democratic revolutionary cause.

We are not aware of any CPP “more comprehensive review of the decision in the coming days” since September 2022. Nor particularly of any CPP denial, correction or clarification of the Judge Magdoza-Malagar Resolution’s detailed and largely substantiated findings of fact on the CPP’s “Revolutionary Dual Tactics” in the Recruitment Process (pp. 37-48) and in the Peace Negotiations (pp. 48-57), “Internal Purging” (pp. 60-71), “The Plaza Miranda Bombing (1971)” (pp. 72-74), and “More recent attacks against civilians” (pp. 74-90).

Dr. Badoy-Partosa thru Atty. Roque on “Eight Palpable Errors” in the Judge Magdoza-Malagar Resolution

Another immediate but vehemently contrary reaction to the Judge Magdoza-Malagar Resolution dismissing the DOJ Petition to proscribe the CPP-NPA as terrorist organizations under HSA 2007 came from facebook posts of Dr. Lorraine Marie T. Badoy-Partosa, a former NTF-ELCAC spokesperson and since then a radio-TV broadcaster (journalist) with the Sonshine Media Network International (SMNI). Those facebook posts of Dr. Badoy-Partosa against Judge Magdoza-Malagar for her said Resolution became the subject of the SC Decision in two consolidated ***Badoy-Partosa***cases finding her GUILTY of indirect contempt of court.[4]

The *Badoy-Partosa* Decision made this essential finding thereon: (at pp. 44-45, citations omitted, underscorings supplied)

Her assertion that Judge Magdoza-Malagar dismissed the Department of Justice's petition because of her supposed friendly ties with the CPP-NPA-NDF threatens the impartial image of the Judiciary. Her claim that the judge lawyered for one of the parties due to her alleged political leanings similarly harms the court's administration of justice. Respondent even claimed that the judge was assisted by the CPP-NPA-NDF when she wrote the decision, putting into question its legality.

x x x

First, respondent's "criticisms" were not made in good faith or without malice. She did not act with an "honest sense of duty" or with an interest in the pure and efficient administration of justice and public affairs. Instead, she was impelled by a self-seeking motive, which was to stir discontent among her audience. Without a doubt, respondent's use of violent and abrasive language in hurling accusations at Judge Magdoza-Malagar belies any claim that she acted in good faith and without malice.

Second, respondent's comments were not a "fair and true reporting of a proceeding or any of its incidents." On the contrary, respondent imputed serious allegations against Judge Magdoza-Malagar and the Judiciary without showing any factual basis. Her posts and even the pleadings she filed before this Court do not indicate that she possesses evidence to support her scandalous statements. She launched the tirade against the Judiciary without thinking of the consequences that her unverified statements may bring.

Third, her statements subject do not constitute "fair commentaries on matters of public interest" as they are not "grounded in truth and facts[.]"

The *Badoy-Partosa* Decision had earlier recapitulated the proceedings, including Dr. Badoy-Partosa's "Comment/Opposition to the Show Cause Order" prepared by her defense counsel Atty. Herminio Harry L. Roque, Jr., wherein he proffered arguments of "eight palpable errors" in the Judge Magdoza-Malagar Resolution, summarized as follows: (at pp. 9-10, citations omitted, underscorings supplied, and paragraphs reformatted to start with each numbered alleged error)

Respondent filed a Comment/Opposition to the Show Cause Order, positing that her post over Judge Magdoza-Malagar's decision dismissing the proscription case was done "in the exercise of journalistic comments and constitute fair comments on a matter of public interest." She also asserted that her comments were fair because of "eight palpable errors" in Judge Magdoza-Malagar's Resolution.

First, respondent points out that Judge Magdoza-Malagar erred in ruling that the CPP-NPA cannot be proscribed as a terrorist group as it used violence to achieve its noble goals. She cited United Nations General Assembly (UNGA) Resolution 49/60, which sought to criminalize a number of terrorist activities despite their political underpinnings, and which has become customary after all United Nations members had adopted it without objection.

Second, respondent stresses that Judge Magdoza-Malagar erred in declaring that political crimes were not terrorist acts and in relying on an outdated sense of leniency for acts of rebellion.

Third, respondent states that the judge's application of leniency toward the acts of the CPP-NPA, because they were impelled by a single criminal intent—achieving a political purpose—was wrong because rebellion was not mutually exclusive with terrorism.

Fourth, respondent faults Judge Magdoza-Malagar for declaring that the acts alleged did not cause "widespread and extraordinary fear and panic" among Filipinos, which was why she criticized the judge for being out of touch with what was happening to the targeted indigenous peoples.

Fifth, respondent claims that Judge Magdoza-Malagar's conclusion that guerilla warfare cannot constitute terrorism is wrong.

Sixth, she asserts that the judge's declarations contradict local and foreign jurisdictions declaring the CPP-NPA as a terrorist organization, and which should be subject of mandatory judicial notice.

Seventh, she argues that the judge also erred in resolving the proscription case under the Human Security Act and not the Anti-Terror Act of 2020.40

Finally, in relation to the seventh ground, respondent posits that the judge erred in treating the proscription case akin to declaratory relief and, in any case, she should have divested herself of jurisdiction since the law vests jurisdiction to proscribe terrorist groups in the Court of Appeals.

It is at once apparent that these alleged "eight palpable errors," being largely legal in nature, are arguments really of Atty. Roque, a recognized public international law expert and habitual constitutionality suitor, in the recapitulated "Comment/Opposition" prepared by him (and much more expounded by him there), rather than of his client Dr. Badoy-Partosa as found in her likewise extensively quoted (in the Decision) critical facebook posts against Judge Magdoza-Malagar.

Nowhere however in the *Badoy-Partosa* Decision are the Atty. Roque alleged "eight palpable errors" in the Judge Magdoza-Malagar Resolution discussed and resolved on their merits. And correctly so, because the *Badoy-Partosa* case was one of indirect contempt of court, not an appeal to review the correctness or otherwise of that Resolution (which actually was never appealed by the losing petitioner DOJ). And so, regardless of the merits of the alleged "eight palpable errors," the Decision focused on the manner that Dr. Badoy-Partosa ranted against Judge Magdoza-Malagar for her Resolution. It found Dr. Badoy-Partosa's tirades to be characterized by "use of violent and abrasive language," literally "explosive statements directed toward respondent's considerable number of followers [that] were clearly made to incite and produce imminent lawless action," "the ferocity with which she responded to the trial court's ruling," "clear threats against Judge Magdoza-Malagar," "incendiary statements… effectively made a call to action against Judge Magdoza-Malagar," "the harmful, vicious, and unnecessary manner in which respondent launched her criticism" and "vitriolic statements and outright threats against Judge Magdoza-Malagar." Stated otherwise in *Badoy-Partosa* terms: (citations omitted)

Maintaining the courts' dignity and their ability to command respect from the public works hand-in-hand with its administration of justice. Thus, while the freedoms of expression, speech, and the press include the right to criticize judicial conduct, such exercise must not threaten judicial independence. (p. 22)

One's right to freedom of expression must be as fully protected as possible; however, its exercise must never transgress the equally important aspects of democracy, not least of all the Judiciary's dignity and authority. (p. 23)

In cases where individuals are charged with contempt of court for making utterances or publishing writings against the Judiciary, this Court weighs one's freedom of speech against judicial independence. To constitute constitutionally protected speech, the statements must be bona fide and made with decency and propriety." (p. 29)

Additional Notes and Concluding Remarks

1. The Judge Magdoza-Malagar Resolution of 21 September 2022 dismissing the DOJ Petition to

proscribe the CPP-NPA as terrorist organizations under the HSA 2007, including its basic finding that "that the CPP-NPA is organized or exists, not for the purpose engaging in terrorism," but "to achieve a political purpose" of "rebellion" such as through the waging of "guerrilla warfare [which] is not synonymous with terrorism," was never appealed by the losing petitioner DOJ. Perhaps the DOJ opted to avoid the Resolution being reaffirmed by Judge Magdoza-Malagar (on Motion for Reconsideration) or by a higher court such as the Court of Appeals (CA) or the SC on appeal or *certiorari*. Consequently, the Resolution has become final and executory. As such final trial court decision, the Resolution has become "a part of the legal system of the Philippines."[5] For whatever that may be worth, given that the HSA 2007 has been repealed by the ATA 2020.

2. Perhaps, the DOJ has or had opted to instead pursue proscription of the CPP-NPA under the ATA 2020. But there is no sign or showing of this yet, more than two years after the Resolution and more than three years after the SC *En Banc* Decision in *Calleja vs. Executive Secretary*[6] which declared only two provisions of the ATA 2020 unconstitutional (ergo, the rest of the 25 or so questioned provisions would be considered constitutional). The definition of Terrorism under Section 4 was upheld except for its last phrase. Section 26 on Proscription of Terrorist Organizations was likewise upheld. One wonders about the delay in a new DOJ Petition for proscription of the CPP-NPA under the ATA 2020. Maybe the DOJ or the Anti-Terrorism Council (ATC) was traumatized by the Judge Magdoza-Malagar Resolution, so much so as to dissuade it from attempting another proscription application which, if ever, will be filed this time before the CA, no longer the RTC.

3. Whether the Judge Magdoza-Malagar Resolution was correct or wrong in dismissing the DOJ Petition to proscribe the CPP-NPA as terrorist organizations under the HSA 2007 "may be more academic than practical" (to use the Resolution's words), given the latter's repeal by the ATA 2020. The latter's definitional framework on terrorism is quite different from that of the HSA 2007. For example, the ATA 2020 definition does not include the phrase ""thereby sowing and creating a condition of widespread and extraordinary fear among the populace" found in the HSA 2007 definition, which qualification or element the Resolution ruled as not obtaining in the nine (9) incidents of alleged CPP-NPA atrocities against civilians. The corresponding qualification or element in the ATA 2020 is merely "create an atmosphere or spread a message of fear" without describing it as "widespread and extraordinary" and to be "among the populace," which connotes a large target audience. But of course this qualification or element would not be the only factor in determining anew in another judicial (CA) process for proscription whether the CPP-NPA are terrorist organizations, this time under the ATA 2020. Would it make a significant difference even if ever that proscription application is granted? The DOJ and/or ATC must be weighing whatever possible counter-terrorism or counter-insurgency advantage that may bring as against the risk of another judicial rebuff.

4. The Judge Magdoza-Malagar Resolution actually made this pronouncement in its part I on "Jurisdictional Matters":

In comparison, proscription under ATA 2020 while essentially also a special judicial proceeding, carries more drastic consequences. Section 10 of ATA 2020 penalizes "recruitment to a terrorist organization" with a penalty of life imprisonment without the benefit of parole and of R.A. 10592.2 The same provision also penalizes any person who shall "voluntarily and knowingly join in any organization, association, or group of persons knowing that such organization, association or group of persons is proscribed under Section 26 of the Act, or designated by the United Nations Security Council (UNSC) as a terrorist organization, or organized for the purpose of engaging in terrorism, with imprisonment of twelve (12) years." The Supreme Court in *Calleja vs. Executive Secretary, et. al.*, (G.R. Nos. 252578, 252579, 07 December 2021) has upheld the constitutionality of said provision on the ground that it does not penalize mere or nominal membership, only membership that has a "scienter element" – where the offender voluntarily joins an organization, association, or group

voluntarily despite knowing that the same is judicially proscribed or is designated by the UNSC as a terrorist group." There is no similar provision under the HSA of 2007. (pp. 12-13, citation omitted)

A close look at the last paragraph of Section 10 of the ATA 2020 defining and penalizing Membership in a Terrorist Organization **also includes** "voluntarily and knowingly join[ing] any organization… organized for the purpose of engaging in terrorism." It **may at least be argued** that the generic-sounding "any organization… organized for the purpose of engaging in terrorism" would include **those designated** as terrorist organizations under Section 25's third paragraph on an administrative or executive designation by the ATC. This administrative or executive process is certainly less stringent than the judicial process of proscription under Section 26. At the same time, the said generic-sounding phrase in this penal law is "to be interpreted strictly against the State and liberally in favor of the accused" in traditional statutory construction.[7] In which case, mere designation may not be enough, further proof may be needed to show that the concerned designated organization was "organized for the purpose of engaging in terrorism." Unless, it is established that this is (deemed) covered by designation or proscription of terrorist organizations.

As it is, aside from President Duterte's earlier **Proclamation No. 374** dated 5 December 2017 declaring the CPP-NPA "as an entity designated and/or identified as a terrorist organization pursuant to Section 3(e)(1) of RA 10168 [The Terrorism Financing Prevention and Suppression Act of 2012, or TFPSA]," the ATC has also issued the following Resolutions designating as "terrorist" these organizations and persons under Section 25's third paragraph and Section 45 of the ATA 2020:

1. **ATC Resolution No. 12** (9 December 2020) – the CPP/NPA

2. **ATC Resolution No, 17** (21 April 2021) – 19 named Central Committee members of the CPP/NPA, including Jose Maria Sison and about eight others who have since passed away due to natural and unnatural causes

3. **ATC Resolution No. 21** (23 June 2021) – the NDFP

4. **ATC Resolution No. 28** (26 January 2022) – 16 named underground organizations (UGOs) of the CPP-NPA-NDFP, including Kabataang Makabayan (KM)

Because of the ATC terrorist designations such as these, the Judge Magdoza-Malagar Resolution is of the following view:

But the distinctions between designation and proscription may be more academic than practical – in reality, the consequences are the same. Both put into operation R.A. 10168 or the "Terrorism Financing Prevention and Suppression Act ("TFPSA"). Moreover, under ATA 2020, both designation by the UNSC and judicial proscription by the Court of Appeals makes recruitment to, and the knowing and voluntary membership of, said UNSC-designated or court-proscribed organization, criminally punishable. (p. 16)

As of now, "under ATA 2020, both designation by the UNSC and judicial proscription" of the CPP-NPA as terrorist organizations" has not (yet) come to pass. That leaves only the ATC terrorist designations of CPP-NPA, aside from their designations as "foreign terrorist organizations" by the U.S.A., the U.K., Australia, the European Union, and New Zealand. It remains to be seen in an actual case applied of the ATA 2020, whether its Section 10 last paragraph on voluntary and knowing Membership in a Terrorist Organization as a terrorism-related crime in itself covers also ATC-designated organizations under the third paragraph of Section 25, not only "UNSC-designated or court-proscribed organization."

This may be seen as a reprise of sorts of the repealed old 1957 Anti-Subversion Act, R.A. 1700, which penalized membership in the CPP (the old CPP of the Lavas) "and/or its successor" (which is the new CPP of Sison). This was discussed in part VII on "Survey of Relevant SC Jurisprudence on the CPP-NPA" of the Judge Magdoza-Malagar Resolution, as follows:

The Supreme Court [in *People vs. Hon. Simeon Ferrer, et al.*, G.R. Nos. L-32613-14, December 27, 1972] likewise finds no merit in the claim that R.A. 1700 imputes "organizational guilt" despite the requirement of proof of membership, stating that this is precisely the nature of conspiracy, where all who participate in the criminal covenant are held liable. Pointedly, the statute does not punish mere membership, only membership that is "knowing" or "active" with specific intent to further the illegal objectives of the Party. The requirement in Section 4 of R.A. 1700 that membership to be unlawful, should be proven to have been acquired "knowingly, willfully, and by overt acts" – constitutes an element of membership distinct from the ingredient of "guilty knowledge." The former requires proof of direct participation in the organization's unlawful activities while the latter requires proof of mere adherence to the organization's illegal activities."

Four years later, the Supreme Court seemingly vacillates. In distinguishing liability under R.A. 1700 from that arising from the crime of rebellion, it holds that the former punishes mere affiliation or membership in a subversive organization. Mere membership is sufficient and the taking up of arms by a member of the organization against the government is but a circumstance which raises the penalty to be imposed upon the offender. Rebellion on the other hand, is committed by rising publicly and taking up arms against the government for any of the purposes cited under Article 134 of the Revised Penal Code. (*People of the Philippines vs. Silvestre Liwanag alias Linda Bie*, G.R. No. L-27683, 19 October 1976). (p. 99)

Note that the R.A. 1700 CPP membership qualification of "by overt acts" is not found in the ATA 2020 Section 10 last paragraph penalizing Membership in a Terrorist Organization, requiring only "voluntarily and knowingly join[ing]" that it "is proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism." A new judicial determination of whether the CPP-NPA is that last kind of terrorist organization, i.e. one "organized for the purpose of engaging in terrorism," will have to somehow reckon with the Judge Magdoza-Malagar Resolution's finding that the CPP-NPA "is organized or exists not for the purpose [of] engaging in terrorism" (p. 114) even if this was assessed under the repealed HSA 2007. After all, it has become "a part of the legal system of the Philippines."

5. When we say that the Judge Magdoza-Malagar Resolution "may be more academic than practical," there is still a partial "practical" aspect. As for the perhaps the bigger "academic" aspect, this is more than just its having been decided under an already repealed law. Despite that, it makes for an excellent academic case study and legal debate. Was the decision correct or wrong in dismissing the DOJ Petition to proscribe the CPP-NPA as terrorist organizations under the HSA 2007? And regardless of its correctness or otherwise, how about the way that Judge Magdoza-Malagar came to this decision? Offhand, some of Atty. Roque's arguments on "eight palpable errors" in the Judge Magdoza-Malagar Resolution appear to be well-taken, particularly on the not mutually exclusive relationship between terrorism and political crimes like rebellion, and between terrorism and guerrilla warfare. These and other inter-relationships are important for future and other cases.

For our part, we find to be at least academically reviewable the blanket dismissal of the uncontested voluminous police-military public documentary evidence on twelve (12) NPA attacks against units of the AFP, PNP, and their paramilitary auxiliary armed forces as "hearsay" simply because "said exhibits have not been supported by testimonies of actual eyewitnesses to the encounters." Likewise, the blanket dismissal of various possible acts of terrorism like the Internal Purges and the Plaza Miranda Bombing simply because these "had occurred prior to the HSA 2007 and therefore cannot

qualify as a terrorist act." This goes against the laudable historical approach of the Resolution which reviewed the CPP-NPA history and inner workings going back to its founding and foundational documents way back 1968. Assessing whether the CPP-NPA is terrorist or not ought to indeed be informed by its whole historical track record. Be that as it may, it is possible that the Judge Magdoza-Malagar Resolution may be correct in the result of dismissing the DOJ Petition to proscribe the CPP-NPA as terrorist organizations under the HSA 2007, even if there may be lapses in its arguments, findings of fact, and appreciation of the vast uncontested DOJ evidence presented.

We must now end this extended essay, even as there is still much more to say, on the Judge Magdoza-Malagar Resolution in so far as it mainly deals with assessing whether the CPP-NPA is terrorist or not. Our earlier essay on the Resolution, however, already focuses on and covers its likewise important discussion on the CPP-NPA's Revolutionary Dual Tactics and Front Organizations, and on Red-Tagging. Suffice it to say that we hope we have opened an academic or continuing legal education discussion door. There are indeed lessons to be learned from the Judge Magdoza-Malagar Resolution, some pointed out in our two essays on it, and some still to be brought out in the hoped-for ensuing discussion. Ultimately, this involves how the State and the citizenry may best deal with and resolve the local communist armed conflict in the best interests of the country and the people. — #

Soliman M. Santos, Jr.

Naga City, 19 January 2025

Notes

[1] Several challenges to its constitutionality were all dismissed by the Supreme Court *En Banc* in *Southern Hemisphere Engagement Network, Inc. on behalf of the South-South Network (SSN) for Non-State Armed Group Engagement, and Atty. Soliman M. Santos, Jr. vs. Anti-Terrorism Council, et al.*, 642 SCRA 248 (2011) on largely procedural or technical, rather than substantive, grounds. The author was the lead individual petitioner and counsel for the lead petitioners, together with his collaborating counsel the late Atty. Vicente Dante P. Adan.

[2] 812 Phil. 179, G.R. No. 231658, July 4, 2017, penned by Associate Justice Mariano C. del Castillo.

[3] Marco Valbuena, Chief Information Officer, Communist Party of the Philippines, "On the Manila RTC dismissal of terrorist proscription against the CPP and NPA," September 22, 2022, accessible thru the CPP-NPA-NDFP website www.philippinerevolution.nu.

[4] A.M. No. 22-09-16-SC and G.R. No. 263384, August 15, 2023, uploaded February 28, 2024, penned by Senior Associate Justice Marvic M.V.F. Leonen.

[5] Civil Code of the Philippines, Art. 8: "Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines."

[6] G.R. No. 252578, December 7, 2021, penned by Associate Justice Rosmari D. Carandang.

[7] *U.S. vs. Resnick*, 229 U.S. 270; *U.S. vs. 99 Diamonds*, 139 *F.* 961, as cited in Ruperto G. Martin, *Statutory Construction* (Manila: Premium Book Store, Fifth Edition, 1976), p. 195.

P.S.

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