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**ENFORCEMENT
AND IMPLEMENTATION
OF THE OPTIONAL PROTOCOL
TO THE CONVENTION
ON THE RIGHTS OF THE CHILD
ON THE INVOLVEMENT
OF CHILDREN IN ARMED CONFLICT**

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LIST OF ABBREVIATIONS

Government of the Republic of the Philippines -- GRP
Communist Party of the Philippines – CPP
Moro Islamic Liberation Front – MILF
Moro National Liberation Front – MNLF
National Democratic Front of the Philippines—NDFP
New People’s Army – NPA
Convention on the Rights of the Child – CRC
International Covenant on Civil and Political Rights – ICCPR
Department of Social Welfare and Development – DSWD
Commission on Human Rights – CHR
Rome Statute of the International Criminal Court – Rome Statute
of the ICC

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PREFACE

Dignity—the core principle of our humanity—serves as a wellspring of ideas and principles that universally apply to contemporary issues and concerns bedeviling humankind. International human rights law and international humanitarian law intersect on this notion of dignity.

Concerted actions of the international community in bringing about an end to children in armed conflict should be measured up and evaluated along the lines of this tenet. This way, dignity serves as the fundamental norm of human conduct and affairs in the grassroots, national, regional and global levels, being enshrined at the very core of all human relationships as well as wars and armed conflicts.

It is along these lines that the phenomenon of children in armed conflict, especially child combatants, needs to be critiqued and resolved. It is from this basic concept that we need to forge an ethics of war, a code of conduct, an advocacy tool, a weapon,¹ based on this core, living and breathing idea, among warriors and all other stakeholders in raging armed conflicts in the world, chiefly the children themselves. An ethics² that could bind and serve to inspire and guide the masses of humanity—soldiers and warriors, civilian non-combatants, children, media people, and human rights activists in the battlefield. An ethics that nurses seeds of conflict resolution principles and strategies. An activism, an ethics that nurtures the seeds of a critical, proactive, militant, and mass-based culture of peace-making, of justice-making, of conflict prevention based on the framework of international human rights law and international humanitarian law, in order to affirm life.³ And therefore, rooted on the fundamental precept, the core concept of dignity—the unifying principle underlying our common humanity.

It is this fundamental dignity, this core of our humanity, that serves as the defining and determining spirit and force of this ethics that—carried through by children and the people in their grassroots struggle for human rights and democracy—translates into activism. An activism that attacks any and all structures, institutions, beliefs, and dogma that militate against its very own essence and being.⁴ An activism that finds its own expression in the body of international human rights law and international humanitarian law, inasmuch as these articulate and banner humans' dignity. An activism that recognizes the right to decision-making⁵ and justice-making, hence, history-making, of masses of humanity, especially poor and marginalized children.⁶ An activism that finds expression in critical discourses.⁷ An activism serving as the eye of a political storm that unleashes its own majesty and power through active non-violent actions, including peaceful insurrections.

It is in short, an activism of political empowerment.⁸ An empowerment that would help lead and guide the people and their children to assert their own fundamental human rights even amid raging armed conflicts.

This paradigm assumes prime importance, for it is only by viewing the phenomenon of children in armed conflict within the wider context of wholesale violation of human rights, the negation and destruction of the basic precept of human dignity,⁹ that wars and armed conflicts—and the ensuing conscription of children either as combatants, spies, couriers, or guides—occur. It is only by investigating, understanding, assessing, critiquing and attacking the root causes¹⁰ and factors that spark this broader phenomenon of conflict that the specter of children brandishing rifles and unleashing weapons of destruction calculated to annihilate, maim and destroy could be squarely confronted and decisively resolved on a long-term basis.

It is an activism that synthesizes and strives to actualize into a living, breathing reality, the aims and processes of a holistic, total human development in the civil, economic, social, cultural, and political spheres, with a gender perspective. One that views armed conflict within the context of humanity's yearning for peace and development. A political activism that embraces all the facets and dimensions of human existence. In short, a human rights activism, a democratic struggle,¹¹ that finds power and raging force from the emerging, shining and dynamic force of international law.

Dignity as the core principle of our humanity recognizes and upholds the pivotal and decisive role children could play in confronting and resolving not only the phenomenon of children in armed conflict but the societal roots of strife as well. As the future generation of humankind, children's proactive role and participation in the quest for peace and justice need to be recognized, encouraged, supported, and institutionalized, by means of story-telling, critical reflections, and dialogues¹² involving them, among other means. By creating a climate conducive even for children in armed conflict themselves to find, assert, and claim their own voice, they themselves develop an awareness and sense of their own power and capability to act upon, influence and reshape reality, to change their own life situations. In short, to become empowered as molders of their life-destiny.

INTRODUCTION

OBJECTIVE

This work seeks to find the “missing link” that could help bridge the gap between the real and the ideal.¹³

Existing initiatives of peace¹⁴ and human rights advocates, in the Philippine context, goodwill gestures of parties to hostilities, and the works of philosophers and the international human rights community are sought to be synthesized in an integrative whole in this work in order to help address the issue of children in armed conflict—of a non-international character—in the grassroots level.

It is the challenge of producing impact on the ground as regards Filipino children in armed conflict—amid the snowballing campaign for the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,¹⁵ the adoption of the International Labour Organization’s Convention 182 on the Worst Forms of Child Labour¹⁶ and of the Rome Statute for an International Criminal Court¹⁷—together with the advocacy and lobbying efforts of the international human rights community towards eradicating the child soldier phenomenon, that inspire this work.

This seeks to contribute to the quest for an “era of application and accountability,”¹⁸ of realizing the humanist aspirations embodied in international human rights law—particularly the best interest of the child principle¹⁹ embodied in the Convention on the Rights of the Child²⁰—and international humanitarian law,²¹ through children’s and people’s conscientization and activism in the grassroots level where the real, wounded children and their elders actually are. This activism fleshes out and helps operationalize international human rights norms and standards on the ground by means of grassroots human rights infrastructure building, critical human

rights, social, and political discourse and conscientization among major stakeholders, as well as by means of a democratic and liberative pedagogy, media advocacy, and direct political action²² suffused with the principle of children participation.²³

This work seeks to integrate people's and children's initiatives with international human rights law and international humanitarian law²⁴ with a view to making the ideals enshrined in the Universal Declaration of Human Rights and the United Nations Charter a "living thing of blood and fire" by helping shorten the distance between international human rights norms and standards and people's and children's awareness of these principles and laws. It is largely by making children and the people—the principal stakeholders in armed conflict²⁵—aware of these principles and standards that they would be in a better position to assert their observance and application, transforming themselves from merely passive victims of its depredation into proactive, conscious torchbearers and defenders of human rights.²⁶

This entails the formulation, adoption and carrying out of long-term strategies in order to help develop children's and people's awareness of these norms and standards and for these to be synthesized and internalized within their own culture and *ethos* through the cross-fertilizing power of dialogue using the experiential approach.²⁷

By seeking to achieve a critical mass of children and people conscious and assertive of the adherence of warring parties to the letter and spirit of international humanitarian law,²⁸ while at the same time striving to address its root causes through their popular, democratic participation²⁹—as the people's and children's democratic space widens—human rights would gain greater chances of becoming a breathing reality.³⁰

While international mechanisms are essential, it is, in the Philippine context, the people's and the children's grassroots initiatives that could serve as a critical force to close the appalling schism between law and reality. It is the enlightenment, the will power of the people and their children, particularly the front liners in peace and human rights initiatives, that could be decisive in reaching this "era of application and accountability." The task essentially involves breathing flesh and blood into these principles by means of political activism among forces of the state,³¹ United Nations, citizenry—including children—media, and civil society for human rights to graduate from the level of rhetoric to an unfolding reality to the extent that humans—acting in concert—sacrifice, struggle, and push for this realm of possibility.³²

An action-oriented political philosophy and activism—exploring and trumpeting the wisdom and acuity of children and their folk as well as their potentials for justice-making and history-making³³—is what this humble effort seeks to bring about.

SCOPE AND METHODOLOGY

Scanning international and regional efforts, the work mainly focuses on the grassroots initiatives and potentials for justice-making and history-making of nameless and faceless men and women, and children, who thirst for human rights, for justice, and peace.

While citing relevant international and Philippine laws, the work grapples with the question of how to address the pervasiveness of human pain and suffering by using the vast literature on human rights, with a view to closing the abyss between the real and the ideal.

This study primarily deals with Philippine society that has been wracked, over the last three decades, by a two-pronged war—one Maoist-inspired and the other, fuelled by Muslim separatist goals.

The objective of this study is sought to be achieved by scanning the different grassroots initiatives—exploring the potentials and openings—trail blazed by the people's and children's hopes and struggles, drawing from the strengths of their own *ethos*, experiences, religions, and cultures, as well as learning from lessons and insights derived from the distilled experiences of people from other nations. Certain intervention strategies, and their general direction, together with principal local players, are explored as possible avenues for the actualization of human rights norms and standards. In particular, the role and contribution of activism among children and people anchored on these norms and standards as its core concept, strategy and end goal are emphasized as a dynamo toward the task of narrowing down the gap between human rights rhetoric and practice.³⁴

Chapter I (Birth of Child Soldiers) deals with the various factors that push children into the quagmire of armed conflict. The succeeding chapter (Human Rights

and the Optional Protocol) examines how international human rights law and international humanitarian law could be availed of in order to propel various grassroots initiatives towards closing the gap between law and reality as well as in resolving the phenomenon of armed conflict.

Chapter III (Cross-Fertilization for Political Empowerment) explores the potentials of international human rights law and international humanitarian law in cross-fertilizing local *ethos*, culture, traditions, and values and *vice versa* by means of a critical human rights discourse, including one that may be sought to be carried out right in the heart of liberation movements.

Highlighting the vanguard role children could play in resolving the problem of children in armed conflict, Chapter IV (Critical Human Rights Pedagogy and Children's Activism) extols the different initiatives of children and how their emerging activism could influence political processes and impact traditional power relationships.

Chapter V (Grassroots Human rights Infrastructure Building and Media Advocacy) banners the crucial role a human rights-oriented community, complemented by a conscientious media, could fulfill in dealing with armed conflict. Finally, the last chapter (Towards A State, Citizen and Civil Society Activism) proposes some courses of action towards eradicating the phenomenon of children in armed conflict.

It is hoped that through a cross-section of international human rights norms and standards and local initiatives and strategies, new frontiers for realizing human rights could be identified and tried.

CHAPTER I BIRTH OF CHILD SOLDIERS

Unseen Presence

The task of eradicating the phenomenon of child soldiers, in particular, and children in armed conflict,³⁵ in general, is not an easy one. Child soldiers are an offshoot of a complex web of causes and factors. Like a hydra, they are paradoxically both the casualties and perpetrators of war. Their very nature as young persons ensure the perpetuation of the New People's Army's "protracted people's war"³⁶ and the Moro Islamic Liberation Front's *jihad* as well as struggle for self-rule.³⁷

To say that the phenomenon of children in armed conflict is but a recent phenomenon in the Philippines is to limit oneself to available reports on the subject, which concededly cropped up only recently. Although a dearth of statistical data and information concerning child combatants involved in the Muslim separatist and communist insurgency war exists,³⁸ reports coming out every now and then confirm that, indeed, children are involved in the armed conflict.³⁹

Children have long been affected by violent antagonisms, if not directly involved in strife in one way or the other. However, the frenzied and fast changing conditions of armed struggle has overshadowed and obscured their presence in the battlefield. Their deaths, like that of their adult counterparts in the Muslim separatist struggle, in particular, remain undocumented.

The Abu Sayyaf alone is well-known to be employing children.⁴⁰ Too, the children of Moro National Liberation Front and Moro Islamic Liberation Front *mujahideens* serve as the wellspring of the future combat force of Muslim separatists.⁴¹ The extent with which children have been exploited by parties to the conflict—by virtue of their conviction that what they are waging is a war for survival

and self-defense⁴² justifying their engagement of children in the struggle rather than allow them to simply get killed without putting up any semblance of resistance at all⁴³—is difficult to fathom. Traditional religious practices carried out in the course of armed conflict hampers the monitoring and documentation of child soldiers and other children in armed conflict, especially among Muslims.⁴⁴ Bereft of any monitoring, documentation, and reporting mechanisms and procedures on child combatants, the long-running insurgency and separatist wars make this task difficult. This showcases the urgency of bringing up this question in the negotiating table of warring parties.

Philippine history is replete with hundreds of uprisings mostly triggered by land-related grievances brought about by Spanish colonialism (1521-1898). During the ensuing Philippine-American war (1899-1914)⁴⁵, children became hapless victims and casualties⁴⁶ of imperialism.⁴⁷ Outraged over the massacre of 47 American soldiers in Balangiga, Samar by Filipino revolutionaries on 28 September 1901,⁴⁸ American General Jacob W. Smith explicitly remarked that he wanted “no prisoners” and ordered American soldiers to slaughter all inhabitants “capable of bearing arms,” which included 10-year old boys, and turn Samar into a “howling wilderness.”⁴⁹

Successive peasant revolts also broke out due to landlessness and injustice. The Japanese occupation (1942-1945) also saw the conscription of children by anti-Japanese forces during World War II.

Communist revolts continued afterwards. The establishment of the New People’s Army on 29 March 1969⁵⁰ marked an era that would witness the engagement of children in the Maoist-inspired “protracted people’s war” that logically has to rely on children and the youth as the undying wellspring of red fighters.⁵¹ The CPP-NPA’s strategy of “encircling the cities from the countryside” also entails the entanglement

of indigenous and farmers' communities and their children in its "national democratic revolution of a new type."⁵²

Due to the guerrilla nature of this war, it is not uncommon for the rural folk to be trapped in the crossfire, which oftentimes claim civilian and child casualties, between contending forces.⁵³

Spilling over to the cities during the 1980s, the communist guerrilla war saw the phenomenon of areal target zoning by the police and military of slum communities, wherein male residents—in the dead of night—were herded and among whom suspected NPA sympathizers or members were handpicked by hooded informers.⁵⁴ Abductions, torture and extra-judicial killings of suspected urban guerrillas, including children and youths belonging to Kadena (Chain) and other cause-oriented groups, were perpetrated by the police and military, in retaliation to assassinations of police and military officials carried out by NPA "sparrow units."

The proliferation of radical youth and student groups suspected by the military to be fronts of the CPP-NPA made child and youth members of these organizations vulnerable targets of police, military and paramilitary anti-insurgency operations, both in the cities and countryside. Notwithstanding the repeal of the Anti-Subversion Act,⁵⁵ the CPP opted to remain as a clandestine organization, maintaining a popular united front and doing political propaganda, organizing, and mobilization work among students, out-of-school youths, workers, and farmers. Youth members of the underground Kabataang Makabayan [Nationalist Youth], on account of the Great Rectification Movement, following the bloody purge of suspected government spies, are encouraged to join the ranks of the NPA.

The culture of impunity entrenched by government's continuing failure to render a closure to past atrocities by holding human rights violators to account for

their crimes contributes to the exacerbation of hostilities and the resulting victimization of children in the theater of conflict.

Guerrilla War

It is important to examine realities on the ground that force guerrillas to rely upon and admit children into their folds. It is precisely on account of the unconventional, highly fluid, and clandestine nature of guerrilla war—coupled with pressing demands for manpower—that get communities and children enmeshed in turmoil. Civilians inhabiting far-flung communities, bereft of adequate means of transportation and communication, become vulnerable to gross human rights violations. It is in areas beyond the pale of government services that guerrillas easily find their allies, facilitating their buildup of mass bases and guerrilla zones, inviting military infiltration and reprisals in the process. As a result, civilians, especially children, get caught in the crossfire.

Operating as small guerrilla units—complemented by citizens' militias—revolutionaries and *mujahideens* by force of circumstance, rely upon the masses for their food and other logistical needs, as their eyes and ears for intelligence gathering about the buildup, concentration, and movement of enemy forces, and for mounting operations such as ambushes and raids on government installations as well as military facilities and outposts. Invariably, since boys and girls are least likely to incur suspicion, according them greater mobility, they are exploited—on account of their subservience and docility⁵⁶—as combatants, medics, spies, couriers, guides, supply-carriers, or errand kids⁵⁷ by all parties to the conflict due to sheer necessity.⁵⁸

Civilians, especially children, tragically end up as casualties of the war as government troopers, confronted with a faceless enemy whose principal weapon is not

the gun but pervasive injustice and poverty,⁵⁹ pounce upon suspected sympathizers and supporters whom they encounter in the community. Either they get suspected⁶⁰ and harassed as enemy spies or sympathizers or they themselves get targeted for reprisals⁶¹ on suspicion of rendering aid and succor to the enemy such as by passing information related to military movements and positions, giving food, providing shelter, or treating wounded and sick guerrillas, especially in the heels of hostilities or the mounting of ambushes and raids by guerrilla elements.

During the outbreak of hostilities, children suffer the most on account of their vulnerability to malnutrition, diseases, trauma and stress especially in the course of evacuations.⁶² Child torture also emerged as an issue partly triggered by the phenomenon of child soldiers.⁶³ Children fall victim to torture in the hands of the state on account of their involvement with cause-oriented organizations linked by the military to the CPP-NPA.⁶⁴

Poverty, Ideology and Arms

The snowballing international campaign to stop the recruitment and use of children in hostilities could only be effective as far as advocates successfully endeavor to understand the internal dynamics and motive forces for the recruitment, engagement, and involvement of highly impressionable children in armed conflict. The lure of a political ideology, bolstered by abject poverty⁶⁵ and the culture of arms and soldiery,⁶⁶ impel children to join armed groups.⁶⁷ Their desire for adventure as well as search and longing for a sense of identity and belonging, not to mention domestic problems,⁶⁸ serve as contributory factors for the proliferation of child soldiers.⁶⁹ Further, on account of a media that glorify guns and violence, children at an early age develop attraction to guns and machismo. The culture of violence

perpetuated and nurtured by media—particularly movies exalting violence⁷⁰—serves to attract youngsters during their formative years to weapons of death and destruction and influence them into idolizing gun-toting men and women as their role models. The general lack of alternative conflict resolution and conflict prevention education in schools and communities also contributes to children’s gravitation toward armed groups.

Close family ties also pave the way for children’s exposure to and indoctrination with communist⁷¹ or Muslim separatist beliefs. Children remain attached to one or both parents who may happen to be combatants. Children’s visits to their parents involved in armed movements expose them to weaponry and sometimes even to unexpected military attacks. Children also live with their combatant parents in secessionist camps.⁷²

Moro National Liberation Front and MILF fighters are commonly children of earlier generations of MNLF and MILF *mujahideens* themselves who had witnessed the bombing and burning of their communities as well as the massacre of their families in the early 1970s by the state army.⁷³

As an expression of their commitment to their revolutionary and Islamic cause, and aware of the long drawn out nature of the battle they wage, parents—by virtue of kinship ties coupled with the conviction that the war is waged for their children’s children—at times teach basic weapons stripping, reassembling, handling, and firing techniques to their kids.

Further—assailed by pangs of hunger, rendered hopeless, desperate, and powerless by their lack of educational opportunities⁷⁴ and destitution, and incited by experiences of injustice and repression in the hands of the state⁷⁵—children find in guns and armed groups preaching a noble cause a certain measure of power, a sense

of belonging, protection, prestige, invincibility, and a promise of a better life. Political ideology and religious tenets stir up the children's sense of heroism⁷⁶ and aspiration to contribute for the common good, even if by means of warfare.⁷⁷

Their lack of maturity, however, contributes to the escalation of the number of casualties.⁷⁸ Eventually joining armed movements themselves, children get killed, maimed, wounded,⁷⁹ and, sometimes—according to government claims—sexually abused by their own comrades.⁸⁰ Aside from serving as cannon fodders, children also get exploited as propaganda weapons by all parties to the conflict.

Since dying in battle confers martyrdom as reinforced by religious tenets,⁸¹ children get indoctrinated at a very young age with values related to soldiery such as gallantry in action.⁸² The MILF also established military training camps catering even to children, including girls.⁸³ Weaponry and battles indeed form part of the way of life, particularly of Muslims right from early childhood.⁸⁴ This is the reason why structural roots of the conflict, as well as discriminatory policies and practices,⁸⁵ that militate against and undermine the human rights of Muslims need to be addressed at all levels—constitutionally, economically,⁸⁶ politically, and culturally with the full, democratic participation of Muslims.

In the ensuing chapter, the different modes whereby international human rights law and international humanitarian law could be availed of and wielded especially by members of civil society organizations in order to stir up and galvanize society towards transforming itself into a political force to address the issues and problems that lead to the emergence of the child soldier phenomenon are discussed. Emphasis is given on the potentials of human rights in serving as a framework of unity among members of contending social forces as well as in closing the gap between human rights tenets and existing conditions.

CHAPTER II

HUMAN RIGHTS AND THE OPTIONAL PROTOCOL

The human rights framework can effectively meet the challenge of suppressing the worsening phenomenon of child soldiers—estimated to be more than 300,000 all over the world⁸⁷—and millions of children⁸⁸ in armed conflict. The framework covers both international human rights law and international humanitarian law⁸⁹ as translated into municipal law, in the Philippine context, in an integrative way. The former could address the root causes of armed conflict breeding child soldiers.⁹⁰ The latter particularly governs the conduct of internal armed conflict, of the two-pronged war wracking the country, which sees the employment of children, directly and indirectly, as soldiers, couriers, guides, spies, and errand kids, in three major fronts—state armed forces, Muslim separatists, and communist guerrillas.

This rights framework encompasses human rights instruments dealing with all the myriad issues and concerns relevant to children in armed conflict such as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child,⁹¹ the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,⁹² ILO Convention 182 on the Worst Forms of Child Labour,⁹³ the four Geneva Conventions of 12 August 1949, Protocol II of 8 June 1977,⁹⁴ and others.

The Philippines is a signatory to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.⁹⁵ It was the 31st state to ratify the Convention on the Rights of the Child in July 1990.⁹⁶ It is also a state party to the four Geneva Conventions of 1949 as well as their Additional Protocols of 1977.

Likewise, the Philippines had ratified the International Labour Organization Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.⁹⁷ It had also signed the Rome Statute for the International Criminal Court.⁹⁸

In addition, the Philippines is a state party to the International Covenant on Civil and Political Rights,⁹⁹ International Covenant on Economic, Social, and Cultural Rights,¹⁰⁰ the Convention on the Non-Application of Statutory Limitations to War Crimes and Crimes Against Humanity,¹⁰¹ and a host of other human rights instruments.¹⁰²

Article 38(1) of the Convention on the Rights of the Child enjoins states parties “to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflict which are relevant to the child.” Unlike the CRC which merely requires states parties to “take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities,”¹⁰³ the Optional Protocol prohibits states parties and non-state actors from using children below 18 years of age in hostilities as well as from compulsorily recruiting such persons into armed groups. Specifically, the Optional Protocol mandates states parties to “take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities”¹⁰⁴ as well as ensure that they are not “compulsorily recruited into their armed forces.”¹⁰⁵ Such provision goes a step farther than the CRC which merely obliges states parties to “refrain from recruiting any person who has not attained the age of fifteen years into their armed forces.”¹⁰⁶

The Optional Protocol also proscribes armed groups from recruiting or using persons under the age of 18 “under any circumstances” in hostilities¹⁰⁷ without, however, affecting “the legal status of any party to an armed conflict.”¹⁰⁸

The ILO Convention 182 mandates states parties to “take all necessary measures to ensure the effective implementation and enforcement... including the provision and application of penal sanction...”¹⁰⁹ of provisions relating to the “forced or compulsory recruitment of children for use in armed conflict”¹¹⁰ as well as with respect to any “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”¹¹¹ Clearly, the latter provision includes children involved in whatever capacity in armed conflict.

The Rome Statute for the ICC, which serves as “a powerful tool that considerably reinforces advocacy for children targeted in the midst of armed conflict,”¹¹² outlaws as a war crime the act of “conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities.”¹¹³ In the language of the Rome Statute, such an act constitutes one of the “other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law.”¹¹⁴

While traditionally, only states are the subject of international law, and treaty obligations are binding only upon states who are parties to it,¹¹⁵ individuals, owing to the inherently deplorable character of certain crimes, may be held—following the Nuremberg Principles—individually accountable for crimes against humanity and war crimes. Although the enlistment and conscription of children below the age of 15 into armed forces or using them in hostilities is deemed to be a war crime, the Rome Statute shall only “enter into force on the first day of the month after the 60th day

following the deposit by such State of its instrument of ratification, acceptance, approval or accession.”¹¹⁶

Integrating international human rights law and international humanitarian law into municipal law, the Philippines enacted Republic Act 7610 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act of 1992 pursuant to the mandate of the 1987 Philippine Constitution.¹¹⁷

Obligatio Erga Omnes

Outlawing the act and practice of procuring and employing children for the purpose of taking up arms or participating in armed conflict, in whatever capacity—either directly or indirectly—should be deemed an *obligatio erga omnes*. Criminalizing any and all acts that exploit children for armed conflict would be a milestone not only in safeguarding their best interests but in advancing humanity’s quest for peace as well. The Rome Statute for an International Criminal Court’s proscription against the recruitment and use¹¹⁸ of children age 15 and below in armed conflict as a war crime¹¹⁹ helps achieve this aim. But peace should be understood, not merely in its narrow definition of absence or lack of conflict or strife,¹²⁰ but in its broader, comprehensive meaning, that is, the existence of all conditions necessary and favorable for total human development to flourish.¹²¹

Side by side with the development of a critical political culture among the civilian population, including children, with the help of media—instituting official measures in stigmatizing and criminalizing the procurement of children for purposes of directly or indirectly advancing the armed conflict would help curb this worsening global scourge. In protecting children, the international community inevitably needs to confront the ideological, religious and socio-cultural justifications underlying

children's involvement as armed fighters in so-called liberation movements. It is by asserting this proscription by way of instituting punitive actions upon violators, whether they belong to the government or rebel side, that this prohibition would be eventually entrenched as a principle of *jus cogens*.¹²² While international humanitarian law proves to be the most difficult to observe and implement on the ground,¹²³ attaching penalties, declaring such an act to be a war crime as in the Rome Statute, would serve as a milestone in stigmatizing the practice as well as pave the way for more peaceful political intervention measures to strike at the roots of conflict.¹²⁴

Recent developments in international law—notably the adoption of the Rome Statute, the Optional Protocol, and ILO Convention 182—need to be seized by civil society forces as dynamos that could propel further human rights conscientization works among grassroots sectors. By highlighting the ethical and moral moorings for condemning such practices and the evils of war itself, children and civil society organizations could influence decision-making processes on the part of warring camps and help breathe life into the principle of accountability for such a war crime as laid down in the Rome Statute.¹²⁵ Aside from highlighting the horror and evils of war, these covenants could also be wielded to encourage parties to the conflict to find peaceful alternatives to resolve their differences. Using these treaties, the international and grassroots communities could focus their campaigns and pressure tactics against powerful Islamic countries who provide financial, logistical and training support particularly for Filipino Muslim separatists, who—on account of their bitter experiences in the hands of the state especially during the 1970s—show no qualms in training children, including girls, for warfare.¹²⁶ Pro-children alternatives—specially

formal and non-formal education—should, at the same time, be provided for in order to end the involvement of children in the Islamic and communist war.

While 60 ratifications would be needed for the ICC to come into force,¹²⁷ the Rome Statute nonetheless has underlined a virtually universal consensus outlawing the recruitment and use of children age 15 and below in hostilities. Together with the adoption by the International Labour Organization of Convention 182 on the Worst Forms of Child Labour—outlawing the recruitment and use of children below 18 in armed conflict—these developments¹²⁸ could serve as powerful catalysts in cross-fertilizing with and enriching local norms and cultures, in such a way as to help accentuate child-sensitive values found in indigenous *ethos*, religions, and traditions, with a view to preventing and eradicating the problem of children in armed conflict.

The adoption of the Optional Protocol, though its provisions leave much to be desired in terms of achieving the straight 18 position,¹²⁹ entrenches further the cause of child rights in international law as it fleshes out and further strengthens, to a certain extent, the CRC provisions on children in armed conflict. Since ratifying and acceding states become duty-bound to submit themselves to the supervisory authority of the Committee on the Rights of the Child on this score¹³⁰—as civil society organizations seize this opportunity—richer sources for grassroots awareness-building work could be tapped and made use of in addressing the question of child soldiers and children in armed conflict as the Committee hammers out jurisprudence on this issue.

Framework of Unity

By virtue of its moral force and the desirability of human rights *per se*, the rights framework holds vast potentials in laying a common ground of unity¹³¹ wherein the state, rebel groups, the UN, civil society organizations, the children, the body

politic, and the media as a whole could coalesce and converge.¹³² On account of its universality and indivisibility, human rights could serve as the bedrock of consensus-building among state and non-state actors.

For example, the best interest of the child principle embodied in the Convention on the Rights of the Child could serve as both the guidepost and end goal of the state, UN, civil society groups, media, children, and other stakeholders in addressing and resolving the issue of children in armed conflict. In the process, since the CRC likewise recognizes and upholds the right of children to democratic participation¹³³ and to express their own beliefs and views,¹³⁴ children—especially those affected by strife—should be able to articulate their own ordeals, pains, struggles, aspirations, and hopes.¹³⁵ This process is critically important as herein lies the seeds of democratization, for the empowerment of children to flower in relation to society as a whole.¹³⁶

Moreover, the four underlying CRC principles of survival,¹³⁷ development,¹³⁸ participation and protection¹³⁹ of children ought to guide all actors in their conflict resolution as well as conflict prevention efforts. This framework could be effective in mobilizing state and non-state actors, particularly children, in addressing the phenomenon of children in armed conflict. A multi-pronged, multi-level approach addressing the issue of children in armed conflict within and through this framework, should be able to identify immediate, medium- and long-term intervention strategies, especially in the grassroots, in order to actualize the principles of international humanitarian law¹⁴⁰ and international human rights law.

The insurgent forces, civil society groups, children of war, the state and its agencies, the media—all entangled in the web of social conflict and revolution—are subject to international humanitarian law¹⁴¹ and international human rights law. Both

as a means and an end goal, human rights assume relevance in the Philippine context particularly insofar as addressing the societal roots of the Muslim separatist and the communist insurgency war is concerned. The interfacing principles of both international humanitarian law¹⁴² and international human rights law¹⁴³—underscored by the unconditional protection of the fundamental right to dignity and to a humane treatment¹⁴⁴ and, to a certain extent, as far as international humanitarian law¹⁴⁵ is concerned, the sanctity of life—when popularized could become a part of the social discourse not only among parties to the conflict, but more importantly, among members of the civilian population, especially children, who could assert these principles¹⁴⁶ in order to safeguard their own interests and welfare against the onslaughts of all parties to the conflict.¹⁴⁷ The principle of accountability on the part of the officers and combatants of the warring parties could then become more operational by helping the children and people themselves assume a leading role in human rights discourse.

The peace process as a comprehensive effort to address the underlying roots of conflict, partly by means of peace negotiations in order to seek a broad range of political settlements,¹⁴⁸ could be imbued with human rights as a long term, people-focused and people-engineered initiative.¹⁴⁹ This approach recognizes and seeks to address and resolve the problems impeding the people's enjoyment of their right to holistic and integrative development in the civil, political, social, economic, and cultural spheres pursuant to international law.

The rights framework could also be adopted by warring camps during their peace negotiations.¹⁵⁰ Since human rights underscore the fundamental commonality among humankind, its principles can serve to bridge warring forces in order for them to reach out to each other and explore alternatives to violence.¹⁵¹ Such commonality

actually serves as a wellspring of vast, inexhaustible potentials for transcending their ideological and political differences, which could help provide a better atmosphere conducive for peace negotiations. Using this framework, pressure groups¹⁵² could also lobby¹⁵³ before emissaries to peace negotiations to table for their agenda the demobilization, education, and social reintegration¹⁵⁴ of child soldiers¹⁵⁵ within their own ranks.¹⁵⁶

Quest for Self-Identity

Due to its broadness and diversity, this framework could likewise be adopted in addressing the Muslim's quest for self-determination, using international instruments. Taking off from international law, this framework, for one, recognizes the right to self-determination of indigenous people and ethnic minorities, without, however, necessarily condoning secession, while at the same time bannerizing the rights recognized especially in the CRC, ILO Convention 182, and the Optional Protocol.

The wide array of instruments relevant to the Philippine context—particularly the UN Declaration on the Right to Development and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities—as advocacy and lobbying¹⁵⁷ tools in addressing the issue of poverty, social inequity¹⁵⁸ and injustice as a whole—could help empower children and citizens on the ground through consciousness-raising and conscientization programs coupled with the mounting of various forms of direct political action.

Particularly in the context of the Mindanao conflict, this framework—taking into consideration and furthering the parties' various peace initiatives as embodied in their peace agreements¹⁵⁹—allows for the use not only of the Declaration on the

Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities¹⁶⁰ but also of Article 27 of the ICCPR¹⁶¹ on the rights of the Muslim minorities to self-determination. In this regard, the rights approach could help resolve the conflict between the state and the Moro Islamic Liberation Front that has been waging a secessionist war for self-rule in Muslim-dominated areas.

Human rights awareness building is critically important for the marginalized Muslim minority and other indigenous people, especially children, in order to safeguard their own rights. The tri-people¹⁶² approach—recognizing the different language, culture, religion, and tradition of Christians, Muslims and *Lumads*¹⁶³ (Highlanders)—would only be effective insofar as it addresses the conflict through the human rights framework—that is, by addressing and resolving the issues of centuries-old grievances brought about by extreme marginalization and injustice spurred by the discriminatory policies and practices of the Christian majority controlling the state.

The state should heed the clamor of the Moro people for self-determination that is crucial for their enjoyment of their human right to self-identity, to their own culture, unique religion, and tradition. Bound by Islam as their all embracing political, religious, and social way of life, the Muslims, as well as the state, could adopt the rights framework in resolving the contentious issue of separatism aspired for by Muslims as articulated by their militant organizations like the Moro Islamic Liberation Front, the Abu Sayyaf, and the Islamic Command Council.

The constitutional paradigm must accommodate the ethnic rights of Muslims.¹⁶⁴ As a part of the rights framework, the rights of minorities approach can serve as a reference point for conflict resolution during peace negotiations for a just and enduring political settlement. On the strength of constitutional principles that

recognize and uphold the quest of the Muslim people for their own identity, for their full human rights as a distinct ethnic minority, the problem of children in armed conflict in southern Philippines could to some extent be resolved.

Principle and Action: A Fusion

Aside from instituting mechanisms to ensure the observance of and compliance by the state with its international obligations, treaties—together with the jurisprudence hammered out by the Committee and other UN and international bodies—can be drawn upon in order to cross-fertilize, in a synergistic and symbiotic manner, with local cultural and religious norms and values. This can be done by invoking international human rights law¹⁶⁵ and jurisprudence in various arenas of struggle, especially in the realm of developmental legal aid, which broadly includes public interest litigation, paralegal and human rights education and training, and all conceivable forms of direct political action. This must necessarily be the case, for as actors in the theater of warfare, children and civilians ought to dissect, assess, and carry out their own plan and strategy of enlightened action from their own diverse experiences, in consultation with each other, based on their own ingenuity and collective wisdom and aspiration.

The cross-fertilization of international human rights and local beliefs and practices could be further catalyzed with the Committee's work. An arena where this cross-fertilization could be furthered and accelerated lies in the ethical and moral underpinnings of the campaign against the recruitment and use of children in armed conflict. By complementing the Committee's work with the civil society- and children-supported grassroots human rights programs and campaigns, greater chances of closing the gap, of inching toward the end goal of stopping the engagement of

children in hostilities could be achieved. In spite of its clear double standard on states' and armed groups' observance of the age requirement for the voluntary recruitment of children,¹⁶⁶ the Protocol can accord children, civil society groups and progressive agencies of the state—especially when combined with the Rome Statute, ILO Convention 182, and CRC—with an indomitable weapon and armor to condemn the practice of involving children in strife.

Covenants can be invoked as ethical and legal justifications for employing democratic approaches and strategies for children and people empowerment toward the end goal of achieving their fundamental right to integrative and holistic development in the economic, social, cultural, civil and political spheres as the broad strategy for rooting out the problem of child soldiers and children in armed conflict. Verily, addressing the roots of conflict where children find themselves trapped in the middle either as combatants or non-combatants requires the promotion of human rights—in an integrative and symbiotic manner—in the civil, political, economic, social, and cultural spheres, not only in the traditionally recognized fields under international law such as through the UN thematic and monitoring bodies, but more especially through people's and children's grassroots movements as well. In advancing these movements, human rights could likewise be the normative guide.

Law and Reality

The national and international legal frameworks as far as children are concerned, while relevant and progressive, are handicapped by their severe gap with their observance on the ground.

Insurgent groups, not to mention the state, strive for acceptance and legitimacy both nationally and internationally. It is this aspect of the revolution that partly

motivates rebel forces to adhere strictly to international humanitarian law, which the National Democratic Front, for instance, has shown scruples in observing as could be gleaned from its firm adherence to¹⁶⁷ and act of signing the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law in the course of its peace negotiations with government.¹⁶⁸

However, as in other countries, it is in the agreement's, not to mention treaties', actual observance on the ground wherein breaches oftentimes occur. In the long and intricate chain linking political leadership and frontline soldiers, children actually get employed by all parties to the conflict. In spite of their avowed policy¹⁶⁹ to the contrary, both the government, particularly its military and paramilitary forces, and the CPP-NPA,¹⁷⁰ from time to time recruit and use children in the insurgency war in different capacities. The Moro separatist group poses a more complex and intricate problem, given its avowed recognition and even public exhibition, in a triumphalist manner,¹⁷¹ of children's role in *jihad*, and in pursuing its struggle for self-rule.¹⁷²

In the Philippine context, it is the people's and children's awareness of international human rights standards and norms,¹⁷³ suffused with a gender perspective, as intertwined with the people's local norms, *ethos*, religion, and culture, that could—with the aid of people-instituted mechanisms of monitoring, documentation, and reporting¹⁷⁴ of child rights and human rights violations committed on the ground, in collaboration with media, state and United Nations agencies—help minimize, if not, close this gap. Generally, it is the people's ignorance of their own human rights and various entitlements that significantly account for gross human rights abuses.

But catalytic factors need to exist for the end goal of evolving human rights conscious children and citizens, principally the development of a human rights

sensitive media, especially radio that operates effectively due to its instant accessibility to grassroots sectors of society.¹⁷⁵ Human rights organizations, on account of their members' adherence to human rights tenets, are in the best position to popularize by means of conscientization works human rights and, together with the local population, build—according to the latter's own life experiences and initiatives—community-based mechanisms of monitoring, documentation and reporting of abuses perpetrated by either government or rebel forces. Fact-finding missions and quick-reaction teams, springing from and integral to the people's own social organizations—both formal and informal—need to be organized and ready to be activated at a moment's notice in order to respond to the fluid situation on the ground.

These mechanisms are crucial to complement, avail of, and operationalize the government instituted systems of redress available through courts of law and other bodies notably the Commission on Human Rights as well as international human rights bodies. The human rights framework suits the Philippines inasmuch as the necessary human rights protection mechanisms are already legally entrenched.¹⁷⁶ The array of pro-children and pro-youth laws and regulations¹⁷⁷ serve as institutional support lynchpins for carrying out these rights-based grassroots initiatives. To a certain extent, this framework has already taken roots both in civil society groups and government agencies, particularly the Department of Social Welfare and Development and the Commission on Human Rights,¹⁷⁸ and—at least in the legal and regulatory levels—the Department of National Defense.¹⁷⁹ Its basic, and in fact, self-debilitating flaw and weakness, however, lie in the gaping abyss between law and reality. The rights framework, supporting, and serving as the paradigm of, dialogue and discourse, could help address this gap.

Moreover, since the people power phenomenon, to a certain degree, has been institutionalized¹⁸⁰ as an informal though powerful fiscalizer in government and state affairs, the people's democratic initiative in ousting former Presidents Ferdinand Marcos and Joseph Ejercito Estrada could be further built upon and nurtured as a genuine people's democratic undertaking and imbued with human rights precepts to address, among others, the phenomenon of child abuse and exploitation as a whole.

The institution of mechanisms in order to arrest the breakdown of peace and order—through the lenses of human rights—could be achieved by means of state and civil society cooperation that has reached a relatively advanced stage in the Philippines, especially in the field of children's rights.¹⁸¹ Its experiences could provide insights on how the best interest of the child principle could serve as a rallying cry for these traditionally opposing forces. Marked by a high level of collaboration, albeit a critical one on the part of some segments of civil society, state-civil society cooperation particularly as regards children in armed conflict could serve as a fertile ground for further nurturing children's voice pursuant to their right to participation. Due to this high level of cooperation between government and civil society groups on children's issues, stopping the recruitment of child soldiers¹⁸² could proceed not only from a high moral ground but be pursued with a strong children's voice and lobby group and advocacy efforts as well.¹⁸³

In a way, the gap between international law and reality could be narrowed down by drawing upon the democratizing and empowering energies and power of international human rights norms and principles for the voiceless and marginalized sectors, especially children besieged by armed conflict; by children and the masses themselves taking up the cudgels for the cause of weeding out the phenomenon of

child soldiers and children in armed conflict through their own human rights-oriented brand of political activism.

The point is that arming the civilian populace, civil society, and children with human rights discourse could help shape the direction and future of the conflict, identify and help resolve its root causes, and help unify and harmonize conflicting parties by their adherence to human rights norms and standards that generally apply to all of them. Emblazoned as popularly ratified covenants,¹⁸⁴ these are morally and legally powerful norms sought to be observed by the community of nations.

Chapter III presents how, by means of critical discourse, human rights could help radicalize social forces in keeping with human rights precepts and aspirations. How human rights could serve as a framework in critiquing existing modes of power relationships as well as the ideological trigger for the recruitment, engagement, and deployment of children in armed conflict is also tackled.

CHAPTER III

CROSS-FERTILIZATION FOR POLITICAL EMPOWERMENT

In its broadest sense, the human rights framework—embracing both international human rights law and international humanitarian law—could effectively address the intricate nature and characteristics of both the communist insurgency and the Muslim separatist war¹⁸⁵ by means of children's and people's activism. Further, in light of human rights' applicability both during times of conflict (international humanitarian law)¹⁸⁶ and times of peace (international human rights law), it is essential to be adopted in the Philippine context since this framework allows for flexibility, incisiveness, and thoroughness in dealing with both situations, considering that both the MILF and the NPA have been waging a guerrilla war,¹⁸⁷ invariably marked by an on and off armed confrontation,¹⁸⁸ a combination of peace and war,¹⁸⁹ of intermittent fighting and ceasefires.¹⁹⁰ The conflict is characterized by unrelenting efforts to win the people's hearts and minds¹⁹¹ through propaganda and organizing efforts.¹⁹²

This is an insurgency whose potency does not lie on the force of arms alone, but more importantly, on ideology, on persuasion, on the pervasiveness of hunger and structural inequality,¹⁹³ which the state counteracts through its total war approach—a combination of military and social development strategies.¹⁹⁴ It is a propaganda war that from time to time witnesses children being utilized as pawns in order to gain public sympathy for the opposing camps.¹⁹⁵

It is a war that, at the same time, holds potentials for a dialogue, which—on account of the hostilities' long-term and wide ranging impact upon children and the citizenry—must involve state and non-state actors alike, and which, in turn, requires a broad, all-encompassing framework.¹⁹⁶ Hence, this human rights approach.

While three decades of armed conflict cannot simplistically be resolved through the adoption of the human rights framework in social discourse alone, the human rights sensitization of grassroots sectors integrated with their act of critiquing the social order in a dialectical way—when sustained over a long period of time—could help trigger and accelerate a socio-cultural and political transformation and in the process help influence and shape—through the further confluence of various historical forces and developments—the course and outcome of the conflict in keeping with, as ensured by the human rights framework, international human rights norms and standards.¹⁹⁷ This brings about the cross-fertilization of international human rights law and international humanitarian law with local customs, values, mores, religion and traditions, precipitating an internal human rights discourse for the children and the citizenry to be able to partake of a role in critiquing and finding ways to resolve the deep-seated problem of children’s entanglement in armed conflict through the lenses of their own worldview and by means of their conscious decision to intervene in this matter. By means of dialogues among insiders, this approach unleashes the power of cross-fertilizing local *ethos* with international human rights law and international humanitarian law towards a political intervention by means of praxis in the sphere of reality.

Internal Discourse

While international campaigns to stop the recruitment and use of child soldiers are necessary, investigating and understanding the children’s own social milieu and motivations alongside the cause and movement they embrace is essential in initiating a process of discourse within the human rights framework. In this regard, the rights framework pushes for the conduct of dialogue and discourse right within the heart of

liberation movements employing children, directly or indirectly, in different capacities in armed struggle pursuant to the provision of Protocol II.¹⁹⁸

This entails the engagement of child soldiers and other marginalized children themselves in child rights discourse both within and outside armed groups.

This is where the rights framework assumes primary importance as the end goals and means embodied in its principles and objectives serve as legitimate ends and guiding principles in themselves. Intertwining human rights with the ideological and social discourse particularly within cause-oriented groups identified with the CPP-NPA would further enrich—directly and indirectly—the human rights debate and help mainstream human rights discourse within this armed opposition group. This could help challenge and critique, depending on the ability of parties involved in the discourse, the ideological trigger for the recruitment and engagement of children in armed conflict. The ideological impetus for conscientizing, training, and employing children for the CPP-NPA's revolutionary war could be scrutinized and dissected through the combined mix of human rights and local culture. Human rights discourse could influence and shape culture, including attitudes and values relating to armed struggle.

In Muslim context, where guns symbolize manhood and prestige,¹⁹⁹ this approach can be useful as the appeal and reference to the common good by means of human rights could, to a certain extent, help critique this well entrenched way of life. This underscores the permanent urgency to some extent of the task of human rights and peace education, especially among children at risk of being drawn into the heart of armed movements.

What is equally important, though, is the actual process of struggling for human rights. As the children march to the frontlines of this rights discourse and

articulate their own views on children in armed conflict, democratization and political empowerment among them can be achieved though in a slow, painstaking process.

Bannering the right to democratic participation in national and local decision-making processes of children and the people, this approach—advancing human rights norms and standards—would serve as a gigantic step toward the empowerment of the children, the masses, the grassroots sectors. The human rights framework applied by means of Paulo Freire’s dialogical approach would serve as a catalyst for democratization, for political empowerment, for the popularization of the children’s and the people’s clamor for a voice in policy-making in all levels of social existence, particularly as regards armed conflict.

It is by laying the groundwork—by means of state, UN, and civil society collaborative intervention—for children’s and the people’s voice to be heard that the principles of democratic consultation and participation, accountability and transparency crucial for good governance could become a reality. Child empowerment is also crucial in addressing the myriad pressing social issues battering children in all fronts.²⁰⁰

Popularizing human rights and the law among grassroots communities and allowing human rights-based mores and norms among members of civil society organizations—including those of children’s—and public agencies to flourish would accelerate its cross-fertilization with local *ethos*, and help challenge the hegemony of traditional power wielders who promote and preserve the *status quo* that breeds inequality and injustice.²⁰¹

As a powerful tool for critiquing the social order, the rights approach holds enormous potential for radically transforming traditional power relationships. As

applied to children in armed conflict, this dissects the root causes why their universally guaranteed rights to special protection get negated. This framework empowers the powerless by means of democratic discourse respected in the international community. By critiquing the underlying ideology of the *status quo*²⁰² in a critical, popular way, all sectors of society, including the military that plays a significant role in either maintaining or crushing the social order,²⁰³ get conscientized inasmuch as human rights encompasses all the civil, political, economic, social, and cultural spheres delving on the fundamental right to dignity and the creation of all conditions necessary for total human development to be attained.

Through human rights activism, national and local struggles become parts of the extensive web of the international community's efforts to carry out the mandate of the United Nations to promote universal respect for human rights and global peace and security.²⁰⁴ The community's and children's struggle then becomes rooted in international law while at the same time strengthening international human rights norms by struggling for their observance on the ground. Human rights then metamorphoses into an ideology of the oppressed, of those seeking liberation from the whirlpool of violence devouring children.

Essentially, this approach involves and requires the social and political activism of children as non-state actors in the arena of human rights and democratic struggle.²⁰⁵ Insofar as it seeks to undermine the *status quo* that emaciates human rights, this rights-based approach is subversive.

Various intervention strategies aimed at mainstreaming human rights discourse are discussed in the next chapter. The dialectical relationships between people empowerment and a human rights-oriented governance are discussed. Children participation in the quest for human rights and democratic power is elucidated.

CHAPTER IV CRITICAL HUMAN RIGHTS PEDAGOGY AND CHILDREN'S ACTIVISM

The human rights approach could be pivotal in laying the groundwork for mainstreaming human rights discourse in society, particularly in the main arteries of traditional power organs and structures—executive, legislative, and judicial branches of government,²⁰⁶ media, and civil society, with children's voice struggling to be a focal point to influence national policy directions. This discourse would facilitate the process of cross-fertilization of local norms, customs, and traditions with international human rights law and jurisprudence, rather than delimit the discourse within progressive quarters of civil society and government. Mainstreaming human rights could help counter the marginalization of child soldiers and children belonging to classes and sectors excluded from the main social discourse as carried out in the halls of the executive, legislative, and judicial branches, as well as media. In the course of developing a critical rights discourse among members of the body politic²⁰⁷ in a manner that allows for children to assume, in a way, a vanguard role in policy formulation and political decision-making, human rights could serve as a framework for dissecting, analyzing, and critiquing the children in armed conflict phenomenon and other social ills.

The rights discourse helps achieve people's and children's participation, public accountability and transparency in governance. By anchoring their own social movement on human rights tenets, the children and people can demand upon and hold their own state to account in fulfilling its obligation to respect, protect and fulfill their fundamental right to holistic and integrative development²⁰⁸ whose failure ignites

armed conflict. This also cultivates the ground for the children's assumption of leadership roles in the future. This is significant as the human rights paradigm as may be espoused by children in this discourse would help mold and define a human rights-based politics and governance in the future. This is why the involvement of all state and non-state actors, including the academe,²⁰⁹ in this discourse assumes a long-term significance inasmuch as government serves, supposedly, as the agency for carrying out the people's collective will and promoting the common weal. This approach helps translate the international community's rich human rights literature into the field of a people- and children-led social and political activism with human rights as both their guidepost and end goal.

Who are the children who could, together with others, be at the forefront of this activism? Wounded children—street children, child rape survivors, child laborers, child torture survivors, and child detainees—could, among others, have a significant role to play in this children-propelled movement to address the phenomenon of children in armed conflict and other concomitant issues. Why such kids? Grassroots experiences in paralegal and human rights education among these children show the depth of wisdom and caring among them. The experiential approach characterizing such non-formal grassroots education complemented by international law—CRC in particular—proves to be a powerful moving force for children to aspire to achieve change in order to prevent and save other children from falling victim to similarly tragic encounters.

In order to sustain this effort and gradually build a momentum for a children-propelled civil society movement among themselves, institutional support from civil society groups, concerned state and United Nations agencies, media, and community needs to be further entrenched. Agenda-setting by children themselves would help

ensure that this initiative would not be diluted with and manipulated by certain vested interest groups. It is in this respect that the approach of Paulo Freire assumes importance as his radical pedagogy²¹⁰ could preclude the left, right, and center political spectrums from exploiting them for certain self-seeking interests. Freire's approach would enable the children and the community at large to find and claim their own true voice, to fully articulate their own needs, their own *ethos*, and to assert their own world views and interests, as contradistinguished especially from state actors who prove themselves to be quite beholden to the dictates of international foreign creditors.²¹¹

Education, Human Rights and Peace

Human rights education—embracing both international human rights law and international humanitarian law—should be a key component of an overall, long-term grassroots, national, regional, and global²¹² strategy in order to combat the phenomenon of children in armed conflict and related issues.

Human rights defense capability building and conscientization²¹³ efforts could be carried out by means of a critical grassroots education and organizing work characterized by a dialogical process.²¹⁴ The mode of education should be deemed of primary importance²¹⁵ as it could serve to either empower and liberate the community or simply reinforce its existing modes of domination and exclusion,²¹⁶ which had given rise to the armed conflict in the first place. Adopting Paulo Freire's liberative,²¹⁷ participatory, and critical form of education²¹⁸ would help advance humanity's quest for peace based on equality and justice. A critical human rights consciousness could act as a powerful dynamo that could produce a ripple effect in

terms of criminalizing, for instance, under municipal law,²¹⁹ as well as in stigmatizing, the recruitment and deployment of child soldiers.

This can be achieved through popular and entertaining paralegal and human rights education and training—adopting children- and people-focused approaches—and by tackling their own complex social problems and issues. Freire’s radically pro-poor and revolutionary pedagogy²²⁰ requires a certain degree of consensus-building and organizing to be carried out. The Danish Folk School approach²²¹ also accelerates the democratizing and empowering thrusts of this task since the ensuing discourse allows for the cross-fertilization between the body politic and state functionaries crucial for the formulation of truly pro-people policies.²²² Freire’s strategies and approaches in **Pedagogy of the Oppressed** need to be studied, critiqued, adopted, appropriated, and propagated by civil society activists, as well as educators, on account of their liberative thrust, direction, and vision. This would help together with the Danish Folk School tradition institutionalize a transparent, critical, participatory, and democratic—and thus counteract the traditional top-down—approach to development, which serves as a key component in resolving conflict as these blend and fuse with local nuances and *ethos*.

Training programs can be pursued, based on the community's own experiences of life-and-death struggles, following and cross-fertilizing Freire's principles and strategies as well as the Danish Folk School's with local *ethos*, which recognize their own folklores and traditions.²²³ For both approaches actually spring from the “unveiling of reality” on the part of children and the masses.²²⁴ Philippine civil society groups—notably the Popular Education for People’s Empowerment (PEPE)²²⁵ and the member organizations of the Alternative Law Groups (ALGs) of varying political persuasions—are adopting, applying, and propagating this approach as a tool

for community empowerment.²²⁶ The scattered UN, state, and civil society initiatives could be further synthesized by consciously adopting the human rights framework coupled with the liberative thrust of Freire's pedagogy and the Danish Folk School tradition and interspersed with parallel local socio-cultural nuances.

In order to prevent the exploitation of children for certain ideological purposes, it is necessary that human rights education—encompassing both international human rights law and international humanitarian law—focusing on children and utilizing the approaches and techniques of Paulo Freire—be undertaken. Schools must be established with a human rights curriculum in order to promote child rights in conflict situations²²⁷ complemented with peace education, conflict prevention, and conflict resolution strategies.²²⁸ This comprehensive type of education is important especially for children inhabiting strife-torn communities.²²⁹ Human rights accord children the broad and long range perspective in dealing with and confronting the issue of children in armed conflict and other related concerns. By cultivating social values such as respect, tolerance,²³⁰ and peaceful coexistence, human rights reinforce and strengthen conflict prevention, conflict resolution, and parallel peace initiatives. Preventive and remedial strategies and approaches—especially those thought out, debated upon, and hammered out by organized children themselves—should be explored and pursued in order to help children veer away from the path of war.²³¹

Special education programs meant to accommodate and reintegrate child soldiers and other battle-scarred children need to be created—with their meaningful participation in designing, implementation, monitoring, and evaluation²³²—and run by experts employing the multi-disciplinary, multi-lingual, multi-religious, and multi-cultural approach,²³³ as well as Freire's pedagogy.²³⁴

In this empowering quest, children themselves play a critical role in peace-building and human rights promotion. By simply being themselves, they in fact serve as bridges to attaining solidarity, understanding, and peace. Experiences in multi-ethnic communities in southern Philippines show how children could get along well with each other, and that it is only on account of the learned biases and prejudices arising from ethnic differences that social divides occur. Learning from children becomes imperative for peace and human rights advocates to become effective in pursuing the path to democracy²³⁵ and peace, a path that is necessarily intertwined with the people's quest for development, a fundamental right whose enjoyment gets disrupted with the outbreak of hostilities.

On this score, the humanitarian and democratic principles and aspirations embodied in treaties are indigenized as a means of realizing human rights. Inevitably, on account of this approach, these principles become richer as these germinate and cross-fertilize with local norms, culture, religion, and values.

Building institutional support systems for children's voice to ring loud would further help define and shape future intervention strategies with respect to children in armed conflict. The arenas of struggle wherein children could engage in and trailblaze are vast and unlimited as their own acuity, ingenuity and wisdom. As children's voice become institutionalized to a certain degree within the state and civil society,²³⁶ dialogues between policy-makers and the politicized children should be undertaken pursuant to the Danish Folk School approach and supported by principal stakeholders. By building institutional support systems for children to be able to assume a vanguard role in advocating for their own rights and welfare, the task of ending the recruitment and use of children in armed conflict could be carried out—with children's

involvement—in all fronts, in the grassroots, national, regional, and international levels.

This framework would help the people and their children fulfill their role in history-making as well as in justice-making²³⁷ inasmuch as they struggle to root out the underlying causes of strife that traumatize, maim, and kill children.

Wounded Healers

There is another important dimension to this approach. As children become conscientized through their involvement in the struggle and critique of the social order, their wounds and trauma could become healing balms for themselves and society at large. Children's direct and indirect involvement in human rights struggle, especially with respect to life-and-death issues that involve and affect them, such as rape and torture during state custody, could strengthen their resiliency and sense of power to confront and overcome their own personal ordeals.²³⁸ Their pain—their scars and wounds—could help transform children into deeply caring and compassionate beings, condemning violence inflicted against their brethren and kin.

In the Philippines and elsewhere, it is now a growing intervention strategy to respect the right of children survivors—should they opt to—in giving testimonials before different actors affecting child issues. State-civil society collaboration sees child rape survivors, child combatants, child laborers, street children, and child detainees—subject to appropriate safeguards such as concealing their identity—giving personal accounts of their own experiences and insights. This in itself forms part of children's human rights discourse within the larger context of their struggle for human rights and grassroots democratic power.²³⁹

Children should not be viewed as pathetic objects of “rehabilitation.” Somehow, this term disparages children’s resiliency²⁴⁰—their ability and power to transcend their own crises and painful experiences and draw from their wounds and traumas wellsprings of strength and building blocks for character formation. Approaching the child soldier phenomenon from the “inner world” perspective pursuant to the approaches being adopted by Philippine child non-government organizations as well as government organizations and as espoused by Dr. Ma. Lourdes Arellano-Carandang²⁴¹ would help spare children from acquiring a debilitating sense of dependency, of being objects of charity and pity. Intervention strategies should, pursuant to CRC principles, be participatory and empowering. Rather than view their experiences as shattering and corrosive, children’s life-struggles can be accordingly emphasized as strengthening and empowering encounters, hence, possessing positive elements, for children to be able to draw strength and hope from each other and for their experiences to serve as stepping stones toward social transformation.²⁴²

In this regard, the empowering experiences and overarching intervention strategies that have evolved over the years among children in need of special protection—such as street children, child laborers, sexually abused kids, and child detainees—could provide inputs in developing intervention strategies for child soldiers and children in armed conflict. The cases of child torture survivors in relation to armed conflict could also add insights on how to help mobilize children to assume a vanguard role in stopping the recruitment and use of children in hostilities.

Child victim survivors too, on account of their ordeal, could become deeply committed to human rights struggle as their experiences of dehumanization and abuse could stir up in them a deep sense of outrage against forces inflicting madness and at

the same time deepen their sense of empathy and compassion for others,²⁴³ which are virtues indispensable for this humanist struggle. Their tragic experience, given the necessary institutional support can serve as a powerful motive force for achieving meaningful social changes since their experiential discourse—together with the insights and aspirations of these children, particularly those caught up in the midst of armed confrontations—could, at their own volition and initiative, be geared toward influencing and shaping the policy directions of government and rebel camps. They can furthermore channel their creative energies toward the realization of human rights within their own sphere of influence. More importantly, addressing children's issues makes them conscious of their active power to effect social change and to reach out to and influence the lives of others similarly victimized. In this sense, the struggle for democratization among the ranks of children possesses a healing dimension and becomes a part of trauma healing²⁴⁴ as well as empowerment.

Children Power

But these tasks and challenges could only be achieved by articulating, documenting, and propagating—thereby enhancing and strengthening—the experiences in the struggle towards the path to peace and self-dignity of children and civilians. People whose life stories of struggle and death, of wounds and pains, of trauma and nightmares, need to be told and retold, to serve as powerful and moving symbols and images for the contending forces to hearken²⁴⁵ to human rights and explore peaceful alternatives to resolving social inequality and injustice. It is in story-telling²⁴⁶ that children and the masses could find their own compelling voice, that could breathe power in their own hands, in dealing with the warring forces, in upholding the principles of international humanitarian law. It is in story-telling that

reveals the experiences,²⁴⁷ fears, struggles, hopes, courage, heroism, and self-sacrifice of child soldiers, of internally displaced children,²⁴⁸ that the community could see that—while the armed conflict is but a byproduct of social inequality and inhumanity, of “social inequities and various practices of exclusion and marginalization,”²⁴⁹ and that, however just the war may be—its conduct has likewise opened the floodgates of greater evils, of a kind and magnitude far worse than the malady the communist revolution and Islamic secessionist war have sought to cure.²⁵⁰

It is in this story-telling²⁵¹ that human rights, as trampled upon in varying forms and dimensions by parties to the conflict, would be told and retold. As these are the children’s own stories, the civilians’ cry of anguish, the blood that flows, the corpses that lie unburied to decompose, the field that is enveloped in the scent of gunpowder... Stories that unleash the children’s and civilians’ own power.

It is in the arena of story-telling, of sharing—in the course of trauma healing, peer counseling, and participatory research activities²⁵²—that children and people empowerment could be achieved, among other means.

Story-telling²⁵³—and allowing children’s voice to reverberate in, influence, and shape various levels of, policy formulation, especially in state budgetary allocation—could be very powerful in countering the subservience of policy-makers to the dictates of international financial institutions that force government to cut down on social expenditures that directly and indirectly breed children in armed conflict.

This is a brand of intervention strategy that zeroes in on the principal stakeholders’ role in conflict resolution in the immediate, medium- and long-term levels. Such initiatives would complement and help strengthen global and regional human rights groups’ initiatives and campaigns,²⁵⁴ particularly those calling for an immediate stop to the recruitment and use of child soldiers. Story-telling on the part

of kids could serve to critique the *status quo*, the political and budgetary priorities of the state, and policy omissions neglecting the root causes of conflict and poverty.²⁵⁵

Children's Art of War

The development of children's art and literature by children in armed conflict themselves would help raise community and global awareness about the issue of child soldiers and introduce stakeholders to the children's inner world as against, and within, their own world of terror. It is the children's inner world that should serve as the starting point for any meaningful grassroots intervention strategy to curb the child soldier phenomenon. Art—as the children's tool for truth-telling and interpretation of the world—serves as a powerful medium for their self-expression as well as trauma healing. Both art and literature could enable children to advocate for their own rights and welfare in accordance with their own right to participation and freedom of expression. Aside from serving as advocacy tools, art forms such as pantomime, paintings, drawings, murals, sketches, stories, poems,²⁵⁶ dances, songs, rhymes, plays and dramas—together with games and other group dynamic activities—could serve as healing modalities for children, in conjunction with other child empowering strategies, such as lobbying.²⁵⁷

As victim-survivors of strife, children's articulation of their own aspiration for peace based on justice could be a powerful, mobilizing force to be heeded by players in the game of war. To achieve this, institutional support systems need to be put in place, including civil society²⁵⁸ and media machinery meant to hold warring camps to account for child rights violations pursuant to international law, particularly the Optional Protocol, ILO Convention 182, and CRC. Through this process, children as critics of the social order necessarily become parts and parcels of conflict resolution, of conflict prevention, of democratic dialogue²⁵⁹ essential for consensus-building and

policy-making. By strengthening their voice, by according them with their needed institutional support from the state, UN, civil society groups and media, children can eventually develop into a political force to be reckoned with in terms of policy formulation and national goal setting.

This human rights framework—coupled with Paulo Freire’s pedagogy which recognizes, respects, and proceeds from children’s own life experiences and interactions with and interpretation of the world²⁶⁰—nurture the seeds of child activism and empowerment, particularly in dealing with the phenomenon of child soldiers and children in armed conflict.

The child-to-child approach, picking up from the children’s inner world, would be very effective in popularizing the cause of human rights and child rights among children in the context of armed conflict. More importantly, the children’s awareness that, generally, human rights are universally accepted among members of the international community could help them gain a global perspective in their struggle, enabling them to reach out to and link up with children similarly situated in other parts of the globe, paving the way for all-children dialogues, consensus-building, and lobbying strategies and activities, which are necessary ingredients of a truly democratic strategy and consensus on the issue of child soldiers and children in armed conflict worldwide. Other intervention strategies such as all children conferences—concluded by their own formulation of declarations and resolutions on children in armed conflict, fully articulated by means of mass media—would be very helpful in making the best interest of the child principle and their right to participation a living reality as these become integrated and operational in their lives, struggles and hopes, sowing the seeds of a children’s movement in the local, national, regional, and global levels in the process.

The democratizing and empowering thrusts and processes of grassroots people's and children's activism and media advocacy, anchored on international human rights and international humanitarian law, serve as the highlight of the following chapter.

CHAPTER V

GRASSROOTS HUMAN RIGHTS INFRASTRUCTURE BUILDING AND MEDIA ADVOCACY

Building and strengthening human rights infrastructures among, and at the same time empowering, grassroots sectors in human rights and democratic struggle²⁶¹ hold the key in closing up the gap between international law and ground reality. This begins with the sensitization of grassroots players—in the context of their own culture, *ethos*, religion, tradition, and belief—in human rights coupled with capability building for leadership, organizational management, conflict prevention and resolution, networking, lobbying, human rights violations monitoring, documentation, reporting, and information dissemination, as well as various forms and degrees of direct political action. To achieve this, translation of international human rights instruments into languages and dialects spoken by the masses—coupled with the development of popular and child-friendly forms of literature like comics, documentaries, and posters as well as tapping of popular forms of media especially radio for human rights education programs in the form of dramas, debates and other traditional forms of discourse like *balagtasan* and songs characterized by children’s participation—need to be carried out as a prerequisite for their popularization among children and the masses. This could be pursued by strengthening further the cooperation among UN agencies—especially the UNICEF and UNESCO—state, civil society groups, children, and the community for joint and collaborative human rights undertakings.²⁶² It is by strengthening this ground initiative that linkages with national, regional, and international organizations would become fully effective in mobilizing international pressure upon insurgent groups, their financiers and

supporters²⁶³ as well as upon the state to stop the recruitment and use of children in armed conflict within their own forces.

Members of grassroots sectors, together with civil society activists, should focus on human rights defense capability building efforts which could be achieved, among other means, through paralegal and human rights education²⁶⁴ and the establishment of community-based monitoring, documentation, and reporting teams. In the process, through Internet²⁶⁵ activism and by availing of United Nations thematic and treaty mechanisms, barefoot²⁶⁶ human rights activists—by pooling their efforts and resources together—should be able to develop the capability to internationalize issues affecting children in armed conflict. Backed up by the 1987 Constitution as well as laws and regulations that protect human rights,²⁶⁷ these initiatives should be likewise pursued within government units, especially those directly involved with grassroots communities such as the *barangay*,²⁶⁸ the Department of Social Welfare and Development, and the Commission on Human Rights. Preventive approaches could be complemented by human rights and paralegal work side by side with other human rights-related undertakings of government. These initiatives would lead to the establishment and solidification of human rights infrastructures.²⁶⁹

This necessitates the arming of grassroots people with human rights principles embodied in international law. Through human rights, the masses could be equipped with the principles and capabilities crucial for the building of a truly democratic consensus essential for promoting their rights and welfare, even in relation to members of civil society groups. Human rights education is necessary for the process of genuine dialogue and consensus-building to take place, precluding the domination of one group by another, be it civil society, the state, or rebel forces.

This grassroots human rights conscientization work holds the key to advancing the “era of application,” of minimizing, if not closing, the gap between international law and practice. The process though is long and arduous, as it is a democratizing and empowering one. With children consciously exercising their democratic rights and freedoms as supported by major human rights covenants, influencing key governmental institutions for promoting and defending children’s rights and interests particularly in relation to armed conflict stands greater chances of being effectively carried out.

Media’s Democratizing Role

The mass media—as the nerve center of dialogue and interaction in society—plays a critical role²⁷⁰ in the task of peace-making and justice-making, as well as in human rights protection and defense. Radio, due to its availability and wide reach among children and folks living in outlying areas, plays an important part in the peace process.

Through the media, which is “pivotal in building public awareness about the abuse and brutalization of children in the context of armed conflict,”²⁷¹ breaches of international humanitarian law can be reported and aired, holding the party

responsible for the atrocity or rights violation²⁷² directly accountable to the people. With the help of media, warring camps can be held to account for any breaches of any human rights principle, which helps heighten human rights awareness among members of the populace and help prevent its repetition in the process.²⁷³ The role of the press²⁷⁴ is critical since, by exposing their conduct in warfare, the people become keenly aware that principles of humanity²⁷⁵ actually exist and serve as peremptory norms of international law.²⁷⁶ Necessarily, this requires the investigation, documentation, and reporting of violations of the rules of war²⁷⁷ committed by all parties to the conflict.²⁷⁸ This also requires the putting up of mechanisms of redress, including compensation, for victims.

The best interest of the child principle as espoused by children themselves articulating their own internationally recognized human rights to survival, development, participation, and protection—given the necessary institutional support from civil society groups, the UN,²⁷⁹ the state, the community, and the media²⁸⁰—could influence and pressure state and rebel groups to desist from employing children, directly or indirectly, in whatever capacity in relation to armed activities. Since children, as the campaigns’ focal point—as marshaled no less by children themselves—could be a persuasive advocacy force, this approach becomes powerful in a subtle way.

The centrality of children’s role in society, declared by law to be “zones of peace,” and the delicateness with which they are traditionally regarded serve as a powerful rallying force in advocating for stopping the recruitment and engagement of children in armed conflict. Due to the force of public opinion shaped by these norms, when popularized and embraced by the masses, the human rights approach—at the minimum level—could help force protagonists to reckon with, observe and adhere

strictly to international human rights law and international humanitarian law,²⁸¹ putting paramount importance to the rights, welfare and well-being especially of children and the civilian populace, lest they incur the wrath of, and be rejected as outcasts by, their own community.

Since parties to the conflict know that winning the battle for the hearts and minds of the population is a condition *sine qua non* for winning the war, the keen adherence of all parties to the conflict to international humanitarian law and human rights principles could—with the aid of human rights monitoring and documentation groups and media—help influence the conduct of the conflict as well as its outcome.

By adopting multi-pronged strategies and approaches, together with conscientious members of the press, peace²⁸² and human rights advocates may be able to persuade and compel contending forces—through their leaders, through publicity—to observe the principles of humanity, the ILO Convention 182, the Rome Statute, and the Optional Protocol by the force of public opinion.²⁸³ This forms part of a broader strategy of human rights protection for children and civilians, entailing the observance of the entire web of international human rights law and international humanitarian law including Common Article 3²⁸⁴ of the Geneva Conventions,²⁸⁵ “the cornerstone for the protection of civilians in internal conflicts and is binding on all parties to a conflict, regardless of their relationship to the State,”²⁸⁶ and Protocol II, to which the Philippines is a party,²⁸⁷ involving “elementary considerations of humanity.”²⁸⁸

With an enlightened citizenry, the passive spectacle of women and children, of the elderly and the sick—huddling each other, massing up together, as they frantically evacuate from their strife-torn rural communities²⁸⁹—could be minimized and avoided.²⁹⁰ Rather, with an empowered community,²⁹¹ together with organized ranks of children, this would serve as a powerful, compelling symbol for the community to

assert its own firm, loud voice for both contending camps to observe, as a matter of duty,²⁹² “the core of humanitarian protections,”²⁹³ pursuant to the principle of *jus cogens*,²⁹⁴ the rules of war,²⁹⁵ and find peaceful alternatives to conflict resolution, as this spells the very survival of the people.²⁹⁶

To be able to fulfill its peace- and human rights-building role, however, media practitioners must operate in an atmosphere of democracy. This democratic space is indispensable for the masses and their children to be able to articulate their own longings for peace and development, for a just resolution of the conflict, not simply in terms of clearing the smoke of battle, but more strategically, in terms of addressing the pernicious problems of underdevelopment, inequality, injustice, and oppression.²⁹⁷

Democracy and people empowerment are essential for both transparency and accountability as principles of governance and leadership to be asserted before government and rebel camps. It is in an atmosphere of transparency and openness that alternative avenues to arms could be explored, cultivated and maintained. It is in this regard that media plays a sensitive and very delicate role in human rights and peace-building.

To achieve maximum impact, media practitioners need to deepen their understanding and sharpen their analysis of the conflict.²⁹⁸ Such appreciation of the dynamics and nuances of the conflict could go a long way in deepening their sensitivity to the pains, sufferings, hopes, and longings not only of the warring camps, but of the people, most especially the children, as well.²⁹⁹ Practicing self-regulation, rather than being censored,³⁰⁰ bashed, and liquidated by parties to the conflict,³⁰¹ members of the media should be fully free to exercise and pursue their own mandate in accordance with their own ethical strictures.³⁰²

The strategic role of the media in the quest for human rights and peace could never be underestimated as it is through the airwaves and newsprints, alongside indigenous modes of communication and information dissemination, that the warring forces are able to open up channels for dialogue,³⁰³ that they make themselves transparent to some extent before the people. This makes possible the initiation of a process of dialogue among members of warring camps, the people, and the children—which could help bring about a certain amount of goodwill as well as a sense of accountability³⁰⁴ and community—with the latter scrutinizing and critiquing the merits and demerits of the opposing parties’ respective positions and, more importantly, articulating the sectors’ demands upon the warring camps,³⁰⁵ based on their own interpretation and assertion of the principles of humanity and international human rights precepts as fused with their own *ethos* to respect the rules of war.³⁰⁶

Building An Edifice of Peace

Since this may be characterized by people’s assertion of human rights principles through the force of civil society, interacting—and collaborating as much as possible—with progressive sectors of government, rebel forces, and media, this then becomes a citizenry- and children-engineered social and political action that draws its power and strength from the citizens’ own sense of bonding within their own community, their own cultural *ethos* intertwined with international human rights norms and principles; a citizenry strengthened and made indomitable by the force of human rights as a weapon and shield for its protection and defense from all sources of attacks. In the process, they can develop an action-oriented and human rights-driven philosophy and ethics that could enrich their own culture through its synthesis and

symbiosis with international human rights norms and standards as well as through the praxis of their own political struggles.

Hence, through dialogue, the organized ranks of the masses and children may be able to hold to account their own government as well as rebel forces for their obligation under international law to observe human rights. In the process, dialogue, instead of the roar of guns, can become the superior mode of conflict resolution. It would be in the sphere, thus, of the hearts and minds of the people that the protagonists could be encouraged to shift their primary arena of struggle—for them to achieve or maintain their political legitimacy—widening, and democratizing, the arena for peace negotiations as well as people’s participation in the quest for peace in the process.³⁰⁷

Thus, as they strive to humanize the war,³⁰⁸ the people also realize the imperative need for international human rights law to be breathed with flesh and blood. It is in their own grasp of its principles, coupled with similar ideas and values found in their own culture and way of life, that they, first, demand for the humanization³⁰⁹ of the war³¹⁰—that is, in terms of minimizing, if not eradicating the prejudicial impact upon their livelihood and very life of violence and strife³¹¹—and, second, for resolving the very roots of conflict. In both tasks, the people and their children should play decisive roles³¹² as the struggle for peace and justice belongs to them.³¹³

This approach should be principle-based as well as people-centered and oriented. It is the people and children, organizing peace zones,³¹⁴ building their own peace sanctuaries,³¹⁵ embracing human rights inherent and latent in themselves, who could help put a decisive end, and help seek ways and means of charting alternative paths, to the raging armed conflicts that desecrate children.³¹⁶

The most fundamental stakeholder in the delicate task of peace-building, quite essential in counteracting and suppressing the continued use and deployment of child soldiers, stands to be the community. The community that at times could be so diverse, ethnically. In examining the community of non-combatants, the civilian population at large, *vis-a-vis* the armed conflict, its own decisive role in conflict resolution and prevention—which even highlights and exposes the limitation and weaknesses of the barrel of the gun—would, and should, inevitably be recognized; and consequently, explored and enhanced, with the members of the community, including children, themselves exploring and paving this path, based on their own communion with the world of conflict and chaos, the world which also—as its equalizing characteristic and *ethos*—nurtures the spirit of love, sharing and self-sacrifice. The community—with its own members engaging in dialogues among themselves, in seeking ways and means for their own self-protection, and more so, in engaging in dialogue with the conflicting forces and in the process demanding accountability³¹⁷—unleashes its own power, asserts its own voice, and charts its own destiny, and thereby negates and countervails its hitherto passive position of vulnerability and helplessness in the face of eruption of hostilities. It is in these dialogues that the warring forces could find the principles of humanity³¹⁸ being articulated, asserted,³¹⁹ and sought to be recognized and upheld. It is in the process of dialogues that human rights discourse in the grassroots level can be pursued in a manner that synthesizes international human rights norms and standards and local cultures, religions, and *ethos* in the context of actual bombardment³²⁰ and firefights.³²¹

By underlining the prejudicial impact of war upon children, the stigmatization of child soldiers could emerge as a consequence of this discourse, anchored specifically on the ILO Convention 182, the Optional Protocol, the Rome Statute, and

the Convention on the Rights of the Child and synergized with the community *ethos*.³²² If strong enough as to pressure warring camps, the people's well-publicized concerted political actions—such as staging candle light parades and children's marches and demonstrations, as well as holding people's and children's caucuses and congresses,³²³ and children's peace summits—in pressing for all parties to respect, abide by, and relentlessly pursue the peace process, could serve as a critical factor in humanizing, if not, stopping the war. Other international initiatives such as curbing the proliferation of arms would then become more effective given this strong public clamor. In fine, the people's and children's advocacy and lobbying initiatives on the ground of such a character could help produce a ripple effect, such as pressuring government to establish an Ombudsman for children and criminalizing the recruitment and use of child soldiers.

More importantly, their involvement in the conduct of war in this manner would help achieve the gradual empowerment of children and members of the community, enabling them to learn from, share and impart, their political experiences and mobilizations, as well as identify and carry out certain forms of collective, creative mass actions,³²⁴ in order to uphold human rights. Crucial would this empowerment be, based on the latent moral force and authority of human rights, for the community's ability to articulate, thresh out, and act upon the question of children in armed conflict.

Communities hold the key to warfare as well as to peace. For communities nurture in their womb the potential warrior. Thus, they must claim a voice on the issue of recruitment and deployment of children by parties to the conflict. Power ultimately belongs to the people. And it is among the people, the children—who are unarmed, who are waging active, non-violent, yet militant forms of human rights

struggle, towards the path of a just and lasting peace—that political power ultimately lies.

This work shall be concluded by proposing certain economic, social, and political measures which could be realized by sustaining the momentum of people's and children's initiatives tackled in the previous chapters. State, civil society and the international community pushing for a human rights activism could decisively resolve the issue of children in armed conflict.

CONCLUSION TOWARDS A STATE, CITIZEN AND CIVIL SOCIETY ACTIVISM

The quest for peace should be carried out using holistic, multi-pronged, multi-level and multi-disciplinary approaches and strategies in order to advance the best interest of the child principle. Essentially, in the Philippine context, this can be advanced by means of human rights defense capability building and justice-making. This is why in the peace process, the children and people should play the most critical part inasmuch as real and enduring political power belongs to them. A power that could only serve their best interests and well-being to the extent that their struggle dialectically advances a genuine people's and children's democracy side by side with human rights. To the extent that human rights assert their own democratic power.³²⁵ Inasmuch as they resort to active non-violent means in order to overhaul unjust and inequitable social structures.³²⁶ This entails a long process of human rights consciousness building and development to ensure its principles' suffusion of and cross-fertilization with the various layers and facets of their daily life and struggle.

To attack the proliferation of child soldiers in the Philippines calls for the adoption and institution of international, regional, national, and grassroots approaches

and strategies. The complexity of the child soldier phenomenon requires collaboration between state and non-state actors as well as international cooperation and technical assistance.³²⁷

The spectacle of child soldiers is but symptomatic of a decaying social order, of iniquitous social relationships and structures that emasculate child rights and human rights. This is the reason why, in spite of the welter of child-friendly laws, conditions that prove inimical to children's best interests persist and even become worse. Just like ubiquitous street children, sexually abused kids, child laborers, and child detainees—child soldiers and children in armed conflict, including those internally displaced,³²⁸ are simply byproducts of a malignant social order that fails to cater to the basic rights and interests of a war-stricken people, to whom children are inextricably bound.

Exerting grassroots, national, regional, and international pressure upon government and rebel groups—as well as their financiers, allies, and supporters—to immediately and unconditionally desist from recruiting, training, and engaging children, directly or indirectly, in whatever capacity, in armed conflict should be waged. To be successful, this must be complemented by a strong, working human rights infrastructure especially at the grassroots level, a task that requires the suffusion of local norms and culture with human rights and child rights—or to put it in another way—the articulation and accentuation of the human rights attributes of local *ethos*, norms, religions, and cultures by means of a democratic process of cross-fertilization with international human rights law and international humanitarian law characterized by a spirit of goodwill, tolerance, and mutual respect.

Even as treaties provide a solid legal framework for the international community's observance and enforcement of human rights—ethical principles and

values that uphold human rights may be explored, dissected, and propagated as well. The ethical and moral principles of Albert Schweitzer, Gandhi, Muhammad, and Jesus Christ, to name but a few—together with the moral creed of Filipino martyrs in the revolution against Spain and the war against the United States—may be added to the rights discourse by way of applying the critical rights approach in a multi-religious, multi-cultural, multi-ethnic, and multi-linguistic milieu especially the one obtaining in Mindanao, without, however, attempting to proselytize. The rights approach in this regard would be complemented by an ethics of compassion, of *ahimsa*,³²⁹ of unconditional love—thereby sowing seeds of a new—politically and socially grounded—global solidarity and spirituality.

At the national level, government—by virtue of its duty and mandate to uphold human rights—must summon and muster a robust political will to say NO³³⁰ to foreign impositions such as structural adjustment programs³³¹ that prove to be detrimental to the body politic.³³² Toward this direction, the repeal of the automatic debt servicing law and debt repudiation—as far as fraudulent debts are concerned—should be immediately undertaken and basic social services³³³—pursuant to the best interest of the child principle—be instead prioritized in state budgetary allotment.³³⁴ In contravention of the Constitution,³³⁵ automatic debt servicing³³⁶—along with corruption—eats up a sizeable portion, if not the bulk, of the national budget,³³⁷ robbing the masses, especially children—the wellspring of warriors—of their fundamental right to survival, education, and health, which accounts for social unrest that ensnares and further dehumanizes the young.

Further, only by taking into consideration the larger political context of the conflict pummeling children could realistic intervention strategies to stop the recruitment and use of children in armed conflict produce lasting tangible results. This

entails confronting and addressing the haunting issue of past human rights atrocities—especially torture, summary executions, and involuntary disappearances³³⁸—perpetrated by both state and armed opposition groups that marred the martial law (1972-1986) and subsequent eras as these fuel and exacerbate the conflict.

Using the human rights framework, a Truth and Reconciliation Commission³³⁹ should be established by force of law in order to break the chain of impunity³⁴⁰ and unearth what really happened immediately before³⁴¹ and during martial law as well as succeeding democratic governments. To be acceptable and credible to parties to the conflict, not only military abuses but rebel atrocities as well must be probed and an official, comprehensive, incisive, and detailed account of these cruelty and inhumanity widely publicized by the state as a measure of self-atonement and justice. Regardless of who they are, all human rights violators must be publicly named and—in accordance with their constitutional right to be presumed innocent and to due process of law—held civilly, administratively, and criminally liable³⁴² for their egregious deeds in order to fortify the rule of law.³⁴³ Victims need to be indemnified by their abusers and the state as a recognition of, and reparation for, their grief and suffering. The state should publicly apologize to victims and their kin and officially acknowledge its own wrongdoing in order to erect a wall of non-recurrence as well as achieve collective healing³⁴⁴ and renewal.³⁴⁵ By exorcising the ghost of the country's dark history by means of national remembering and truth-telling—as a form of moral catharsis and a step toward reconciliation and unity—the armed strife devouring children, with the aid of other local and international intervention strategies, would be significantly reduced, if not wiped out.

This must be so if the root causes of the phenomenon of child soldiers and children in armed conflict are to be excised.

In the final analysis, these solutions are actually far less costly especially in terms of human life. Investing in children—and refusing to compromise, by the sin of omission, their human rights—would in fact go a long, long way not only in preventing and resolving conflict but in weeding out its root causes as well. In due time, children would serve as leaders of society.³⁴⁶ Turning their nightmares into alluring visions of a world steeped in human rights through state, citizen—including children—and civil society activism—with the collaboration of the UN and international community³⁴⁷—would prove once again humans' inexorable, unfettered power and capability to transcend and rise above ignominy. We owe them this much.

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An Act Establishing the Rules and Policies on the Domestic Adoption of Filipino Children and for Other Purposes (RA 8552; approved 25 February 1998)

An Act Establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and for Other Purposes (RA 8043; approved 7 June 1995)

Children's Television Act of 1997 (RA 8370; approved 28 October 1997)

An Act Providing for the Fair and Equitable Allocation of the Department of Education, Culture and Sports' Budget for Capital Outlay (RA 7880; approved 20 February 1995)

The Local Government Code of 1991 (RA 7160)

Youth in Nation-Building Act (RA 8044)

Executive Orders (EO)

Authorizing the Ministry of Social Services and Development to take Protective Custody of Child Prostitutes and Sexually Exploited Children (EO 56; signed on 6 November 1986)

Creating a Committee for the Special Protection of Children from All Forms of Neglect, Abuse, Cruelty, Exploitation, Discrimination and Other Conditions Prejudicial to their Development (EO 275; signed on 14 September 1995)

Establishing the Sajid Bulig Presidential Award for Heroism (EO 340; signed on 22 January 1997)

Further Amending Executive Order No. 203 Dated 27 September 1994, as amended by Executive Order No. 356, Dated 12 July 1996 (EO 421; signed on 20 June 1997)

Proclamations

Declaring the Fourth Week of March of Every Year as “Protection and Gender-Fair Treatment of the Girl Child Week” (Proc. No. 759; signed on 6 March 1996)

Declaring the Second Week of February of Every Year as “National Awareness Week for the Prevention of Child Sexual Abuse and Exploitation” (Proc. No. 731; signed on 5 February 1996)

Declaring the 17th Day of October of Every Year as **National Children’s Day** (Proc. No. 74; signed on 16 October 1992)

Declaring the Month of October of Every Year as **National Children’s Month** (Proc. No. 267; signed on 30 September 1993)

Proclaiming the Adoption and Implementation of the Philippine Program of Action for Children in the 1990’s (Proc. No. 855; signed on 31 January 1992)

Reaffirming the Commitment to the Universal Child and Mother Immunization Goal by Launching the Polio Eradication Project (Proc. No. 46; signed on 16 September 1992)

Regulations

Rules and Regulations on Children in Situations of Armed Conflict

TABLES

LIST OF STATE MILITARY, PARAMILITARY AND ARMED GROUPS

State and Armed Group	Recruiting Children	Estimated Number of Fighters and Child Recruits	Area of Operation	Status
Armed Forces of the Philippines	No	Army: 110,500 Navy: 24,000 Air Force: 16,500	Nationwide	Official state army
Abu Sayyaf Group	Yes	500 armed members; figures on children unavailable	Certain parts of Mindanao	Still active in hostage-taking
Citizen Armed Force Geographical Units	Yes	60,000 active members; figures on children unavailable	Nationwide	A paramilitary group under the AFP; Still active
Cordillera People's Liberation Army	Yes		Abra and Mountain Province in the island of Luzon	Negotiated peace with the Government of the Republic of the Philippines
Moro Islamic Liberation Front	Yes	6,000-10,000 fighters; number of child recruits unavailable	Certain parts of Mindanao islands	Negotiated peace with the Government of the Republic of the Philippines; still active
Moro Islamic Reformist Group	No report available	900 fighters	Certain parts of Mindanao islands	

(breakaway group from MNLF)				
Moro National Liberation Front	None reported	At least 7,500 former combatants; 2,902 former fighters integrated with the AFP; another 1,929 were to be trained for integration on 1 April 1999	Certain parts of Mindanao Islands	Negotiated peace with the Government of the Republic of the Philippines
New People's Army	Yes	More than 10 percent of 9,463 fighters in June 1999 are below 18s according to the AFP	Nationwide	Negotiating Peace with the Government of the Republic of the Philippines in Oslo, Norway

Sources:

Child Soldiers Global Report, Global Report on Child Soldiers 2001, Coalition to Stop the Use of Child Soldiers

Philippines, Asia Report, Coalition to Stop the Use of Child Soldiers, May 2000.

Coalition to Stop the Use of Child Soldiers, The Use of Children as Soldiers in Asia and the Pacific, A Country Analysis of Child Recruitment and Participation in Armed Conflict, September 2000

Muslim, Macapado A., Sustaining the Constituency for Moro Autonomy, pp. 1-10

http://www.c-r.org/acc_min/muslim2.htm

downloaded 17 February 2001

PEACE AGREEMENTS, POLICIES, AND STATEMENTS

<p>Defining the Approach and Administrative Structure for Government's Comprehensive Peace Efforts, Executive Order No. 125</p>	<p>Office of the President, Government of the Republic of the Philippines, 15 September 1993, pp. 1-5</p>	<p>http://www.c-r.org/acc_min/eo125.htm downloaded 17 February 2001</p>
<p>Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law Between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines</p>	<p>Government of the Republic of the Philippines and National Democratic Front of the Philippines¹⁶ March 1998, pp. 1-13</p>	<p>http://www.derechos.org/nizkor/filipinas/doc/agreement.html downloaded 17 February 2001</p>
<p>Additional Implementing Rules of the Joint Agreement on Safety and Immunity Guarantees (JASIG) Pertaining to the Security of Personnel and Consultations in Furtherance of the Peace Negotiations</p>	<p>Government of the Republic of the Philippines and National Democratic Front of the Philippines¹⁶ March 1998, pp. 1-4</p>	<p>http://www.derechos.org/nizkor/filipinas/doc/rules.html downloaded 17 February 2001</p>
<p>The Spirit of Peace has</p>	<p>Office of the President,</p>	<p>http://www.derechos.org/n</p>

Prevailed	Government of the Republic of the Philippines, 16 March 1998, pp. 1-2	http://www.derechos.org/nizkor/filipinas/doc/statement.html downloaded 17 February 2001
Opening Speech at the Formal Signing of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law	Jalandoni, Luis G., chairperson, National Democratic Front Philippines, Negotiating Panel, 16 March 1998, pp. 1-2	http://www.derechos.org/nizkor/filipinas/doc/signing.html downloaded 17 February 2001
Closing Remarks at the Signing of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law	Sison, Jose Ma., National Democratic Front, Philippines, Negotiating Panel	http://www.derechos.org/nizkor/filipinas/doc/ndfp.html downloaded 17 February 2001
The Tripoli Agreement	Government of the Republic of the Philippines and Moro National Liberation Front with the Participation of the Quadripartite Ministerial Commission Members of the Islamic Conference and the Secretary General of the Organization of Islamic Conference, 23 December 1976, pp. 1-5	http://www.c-r.org/acc_min/tripoli.htm downloaded 17 February 2001
The Final Agreement on the Implementation of the 1976 Tripoli Agreement between the Government of the Republic of the Philippines and the Moro National Liberation Front with the participation of the Organization of Islamic Conference Ministerial Committee of Six and the Secretary General of the Organization of Islamic Conference	Government of the Republic of the Philippines and Moro National Liberation Front, 2 September 1996, pp. 1-26	http://www.c-r.org/acc_min/peace.htm downloaded 17 February 2001
Peace Agreements and Enabling Legislation	Government of the Republic of the Philippines and Moro National Liberation Front	http://www.c-r.org/acc_min/accords.htm downloaded 17 February 2001

	Government of the Republic of the Philippines and Moro Islamic Liberation Front, pp. 1-3	
Philippines: 1976-1999, Peace Agreements in South East Asia	Government of the Republic of the Philippines and Moro National Liberation Front; Moro Islamic Liberation Front; and National Democratic Front of the Philippines	http://www.incore.ulst.ac.uk/cds/agreements/sasia.html downloaded 19 March 2001

I hereby certify that the dissertation titled “Enforcement and Implementation of The Optional Protocol to The Convention on The Rights of The Child on the Involvement of Children In Armed Conflict” represents my own work undertaken after my registration as a candidate for the degree of Master of Laws in Human Rights.

PERFECTO G. CAPARAS II
27 August 2001

END NOTES

¹ “Our political, social, pedagogical, ethical, aesthetic, and scientific responsibility, as social and historical beings, as bearers of a subjectivity that plays an important role in history, in the process of this contradictory movement between authority and freedom, is of unarguable importance. But in recognizing political responsibility, let’s overcome petty politics. In underscoring social responsibility, let’s say “no” to the purely individualistic interests.... In demanding ethics, let’s flee from the ugliness of Puritanism and let’s dedicate ourselves to the invention of the beauty of purity.” Freire, *Teachers as Cultural Workers, Letters to Those Who Dare Teach*, translated by Donaldo Macedo, Dale Koike, and Alexandre Oliveira, United States of America, Copyright 1998, para. 3, p. 88

² “A taste for freedom, a love for life that makes us afraid of losing it and places us in a permanent search, an incessant pursuit of being more as a possibility, never as a destiny or fate, constitutes human nature. One of the things that pleases me the most about being a person is knowing that the history that shapes me and which I shape is about possibilities, not determinism. That is why, in facing the possibility of being or not being, I see my struggle gain meaning. To the extent that the future is problematic and not inexorable, the human praxis—action and reflection—requires decisions, severance, and choice. It requires ethics.” Freire, *Letters to Cristina, Reflections on My Life and Work*, Translated from the Portuguese by Donaldo Macedo with Quilda Macedo and Alexandre Oliveira, para. 3, p. 164

³ “Customary rules governing humanitarian law in non-international armed conflict were in the process of development prior to the 1949 Geneva Conventions and some had already attained the status of custom.” Gardam, *supra.*, para. 2, p. 176

⁴ “Our utopia, our sane insanity, is the creation of a world where power is based on ethics. Without it, the world crumbles and cannot survive.” Freire, *ibid.*, para. 8, p. 185

⁵ “One of the reasons, as I see it, for the failure of ‘realist socialism’ was its lack of a taste for freedom, its authoritarianism, its mental bureaucratization, which reduced life to immobility. It was a mechanistic understanding of history which denied history as a possibility and nullified freedom, choice, decision, and belief, and ended up terminating life itself.” Freire, *ibid.*, last para., p. 165

⁶ “This is not an easy struggle. It is a struggle for stubborn people, those who are persistent, hopeful, and patient. It is for skillful people, the curious, those who are always willing to learn, willing to extract knowledge from their antagonizers. It is for the politically competent, those who do not isolate themselves, but on the contrary work to increase the number of fellow fighters.” Freire, *ibid.*, last para., p. 180

⁷ Freire, *supra.*, para. 4, p. 11

⁸ “In such a world, the main task for political power is to guarantee freedom, rights and obligations, and justice, not to support the arbitrary actions of a few against the suffering majority.” Freire, *supra.*, last para., p. 185

⁹ “Authoritarian regimes are in and of themselves a contradiction, a profound negation of the nature of human beings, who, poor and incomplete, need freedom to be, just as birds need a horizon to fly.” Freire, *Letters...*, *supra.*, para. 3, p. 157

¹⁰ “The stark reality was blunt and far from simple: there are deep-seated reasons and often legitimate grievances which explain protracted conflicts. And unless these are dealt with, the conflicts remain.” Garcia, Ed, *Reflections on the Peace Process, Peace, Conflict Resolution and Human Rights Occasional Papers Series No. 94-1, Center for Integrative and Development Studies, University of the Philippines and the UP Press, Para. 3, p. 1*

¹¹ “The future is not a province some distance from the present which just waits for us to arrive some day and perform the operation of adding this ready-made tomorrow to today, which both become old and obsolete. The future is born of the present, from possibilities in contradiction, from the battle waged by forces that dialectically oppose each other. For this reason, as I always insist, the future is not a given fact, but a fact in progress. The future is problematic and not inexorable. Only in a controlled dialectic can the future be thought of as something already known. From a truly dialectic perspective, the dream that moves us is a possibility for which I must fight so it can be realized. And if I fight with many others for its realization, it is because there are forces that—in opposition to our reason for fighting—struggle to maintain unspeakable privileges that result in a reign of alarming injustices: millions of famished individuals, millions of children kept from school, millions expelled soon after entering, and innumerable people dying from the lack of minimum health and medical assistance. This arbitrary disrespect for the barest minimum of rights for the majority of the population is practiced by the minority in power. I fear that shamelessness, which has been causing hopelessness in the majorities, may be coming to the boundaries of its possible limit.

“It is in the concrete, dynamic, and contradictory present that the battle is waged from which the future emerges.... The present and the future are times under construction, transitioning into the past.” Freire, *Letters...*, *supra.*, last para., pp. 152-153, para. 2, p. 153

¹² “Our political-pedagogical thesis was to provide the popular classes with opportunities to uncover hidden truths.” Freire, *ibid.*, para. 3, p. 136

¹³ Jeannet, Stephane and Mermet, Joel, *The Involvement of Children in Armed Conflict*, *International Review of the Red Cross*, No. 322, pp. 105-107, 31 March 1998

<http://www.icrc.org/ihrceng.nsf/c1256212004ce24e4125621200524882/ae3e979f25ea7a1641256603004f5da2?OpenDocument>

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¹⁴ “In October 1990 the Multisectoral Peace Advocates (MSPA) presented their peace framework which called for direct national level talks between the Government and not only the National Democratic Front (NDF) but also other armed groups. The fundamental premises of the MSPA proposal were as follows:

- people outside of the parties in conflict expect to participate in the peace process;
- their participation would be multisectoral and dialogical, aimed at both the Government and the various armed groups in the country; and
- the contribution of NGOs and people’s organizations would derive from their vision and agenda for peace, their willingness to face the contending parties, and their commitment to the peace process.

The peace advocates further envisioned the process in four stages:

- confidence-building measures;
- discreet, informal, exploratory talks;
- formal bilateral talks at the national level; and
- agreements to resolve the conflict

Diokno, Maria Serena I., *The 1986-1987 Peace Talks: A Reportage of Contention, Peace, Conflict Resolution and Human Rights*, *Research Reports*, 1994, No. 3, Center for Integrative and Development Studies and the UP Press, University of the Philippines, last para., pp. 97-98

¹⁵ Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, paras. 1-3, p. 42

As of 29 January 2001, there were 76 signatories, including the Philippines, to the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*.

http://www.child-soldiers.org/news_updates/rats2.html

¹⁶ ILO Convention 182 outlaws the procurement and engagement of children in armed conflict by virtues of the following provisions::

Article 3. For the purposes of this Convention, the term “the worst forms of child labour” comprises:

(a) all forms of slavery or practices similar to slavery, such as the slave and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) xxx

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

Cited also by the Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, sub-para. 2, p. 40

¹⁷ Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, last para., p. 421

¹⁸ Mungoven, Rory, *Child Soldiers: Beyond the Optional Protocol*, Coalition to Stop the Use of Child Soldiers, International Conference on War-Affected Children, Winnipeg, 10-17 September 2000, para. 4, p. 1

http://www.child-soldiers.org/themed_reports/winnipeg.html
downloaded 22 February 2001

¹⁹ Article 3, paras. 1-3, *Convention on the Rights of the Child*.

²⁰ The best interest of the child principle may be propounded vis-à-vis Articles 1 and 32 (CRC) which were cited by the Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, para. 2, p. 39 and paras. 1-2, p. 41

²¹ “Obviously, the general as well as the child-specific provisions of international humanitarian law (the four Geneva Conventions of 1949 and the two Additional Protocols of 1977) and of human rights law (the Convention on the Rights of the Child and the other international human rights treaties) apply to children in these situations.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, para. 2, p. 421

“There are four kinds of international law in relation to child soldiers: international human rights law, international humanitarian law (the specific law applicable to the conduct of armed conflicts), international criminal law and international labour law.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, para. 4, p. 421

²² “The fight for democracy in Brazil is measured by a number of political and pedagogical rights—the right to justice, without which there is no peace; to life, which implies the right to be born; to eat; to sleep; to have good health; to have clothing; to pay respect to the dead; to study; to work; to be a child; to believe or not to believe; to live one’s sexuality any way one deems appropriate; to criticize: to disagree with the official discourse; to read; to play regardless of age; to be ethically informed about what happens on a local, regional, national, and world level; to move, both to come and go; and to be not discriminated against, whether on the basis of gender, class, race, or any other reason, such as being too fat or too thin.

“There is a fundamental duty that relates to all of these rights: the duty of being committed to making them viable. Once these rights are recognized beyond a doubt, we must fight incessantly for them, regardless of our role or occupation in society. Critically implemented educational practice makes an indispensable contribution to this political struggle. Educational practice is not the only key to the social transformation required to gain human rights, but no transformation will take place without it.” Freire, *Letters...*, *supra.*, paras. 3-4, p. 155

²³ The principle of child participation is entrenched in the UDHR, ICCPR, and CRC.

²⁴ “The Philippine government’s formal commitment to the principle of human rights and international humanitarian law has been translated into municipal law, the foremost example of which is the 1987 Philippine Constitution, which has often been referred to as a human rights constitution.”, Muyot, Alberto and Yambao, Vincent Pepito, *Steps Taken to Ensure Implementation of International Humanitarian Law in the Philippines*, *International Review of the Red Cross*, No. 834, pp. 303-316, 30 June 1999, para. 4, p. 1

<http://www.icrc.org/ihrceng.nsf/4dc394db5b54f3fa4125673900241f2f/76b8180136b6ced1412567b3004b5406?OpenDocument>

²⁵ “The emergence and continued growth of churches, nongovernment organizations (NGOs) and political organizations working for a resumption of talks have been the most positive development in the peace process. The National Council of Churches in the Philippines and the Catholic Bishops Conference of the Philippines issued separate statements on peace with identical titles: ‘Seek Peace and Pursue It.’

Diokno, *supra.*, para. 3, p. 96

²⁶ “Although one dominant major power lords it over international politics today, there is an emerging collective conscience of global citizens—important, no matter how imperceptible—capable of putting pressure on major actors to demonstrate their capacity to work together toward desired ends.

“... there is somehow a greater willingness on the part of the international community and the citizens in diverse countries to create the necessary space for former enemies to be helped along, if possible, the proverbial paths to peace.”

Garcia, *supra.*, paras. 1-2, p. 1

²⁷ Freire, *Teachers...*, *supra.*, para. 2, p. 93

²⁸ “Principles of humanity are the source of laws of war. These laws belong in their origin to customary rules accepted through usage and practice....

“... they impose on human conscience an obligation to respect their norms.

“Principles of humanity have a wide scope and could have a far range that might include, in a true sense all rules protecting human rights.” Kasto, Jalil, *Jus Cogens and Humanitarian Law, International Law Series No. 2, Kall Kawik Kingston, Copyright 1994*, paras. 4-6, p. 9

“Among the humanitarian principles is the respect for human rights and their protection in war as well as in peace time.” Kasto, *ibid.*, para. 4, p. 11

²⁹ “The final declaration of an international colloquium on peacemaking observed that citizens’ participation and third-party mediations can provide positive contributions to the peace process not only in the Philippines, but in other areas of conflict as well.

“History tells us that political processes can be subject to numerous imponderables or sidetracked by peripheral issues. The sustained participation of citizens, however, can provide resources capable of generating ideas and support necessary to see a process through. Furthermore, their participation can ensure that the talks remain on track and are not undermined by marginal disagreements. They can be called on as some kind of guarantor to ensure that a single-minded effort to reach negotiated agreements is pursued.

“In the Philippine case, one can point to a singular fact: citizens’ participation has characterized attempts to bring the parties in conflict to accept the negotiations as a preferred option; moreover, citizens’ groups have identified substantive talking points that could eventually be the subject of common understanding or possible agreements in more formal negotiations.” Garcia, *supra.*, paras. 4-6, p. 8

³⁰ “That is why living out this orientation [toward being more] implies fighting for it, otherwise, it cannot be realized. It is in this sense that freedom is not a gift we receive, but instead a right that we acquire....” Freire, *Letters...*, *ibid.*, para. 2, p. 152

³¹ The seeds of state activism may be said to have been sown with the entry in various branches of government of progressive forces. For a critique of this phenomenon, see Alejo, Myrna J., *The Left and State Reform After People Power 2*,

Political Brief, Vol. 9, No. 4, May-June 2001. Also accessible at www.focusweb.org and focusphnewsletter section of www.yahogroups.com, Issue No. 24, 2001

³² “It is in history as possibility that subjectivity takes on the role of a subject and not just that of an object of the transformation of the world. The future then stops being inexorable and becomes that which it is historically problematic.” Freire, *Letters...*, *ibid.*, last para., p. 189

³³ “The future is a problem, a possibility, and not inexorable.” Freire, *Letters...*, *ibid.*, para. 2, p. 137

³⁴ “The 1987 Philippine Constitution has a strong Bill of Rights.... The Special Protection Acts Against Child Abuse, Exploitation and Discrimination (Republic Act 7610) declares children as Zones of Peace, meaning children shall not be the ‘object of attack and shall be entitled to special respect’....

“But with all these laws, the gap between enactment and enforcement is glaringly wide. In the initial report of the government to the CRC, it noted the inadequacy of monitoring mechanisms and systems, lack of skills among service providers, limitation in transportation and communication infrastructures, and resource constraints (GRP Initial report to CRC, 1993). It also acknowledged the continuing violation of children’s rights due to poverty, exploitation, and other forms of discrimination against the child. (O’ Donnell, 1995).”

Protacio-Marcelino *et.al.*, *Torture of Children...*, *ibid.*, paras. 6-7, p. 7

³⁵ See *Protection of Children, Protection of Civilian Persons and Populations in Time of War, Additional Protocol I, Part IV, Geneva Convention relative to the Protection of Civilian Persons in Time of War (Convention IV of 12 August 1949)*, ICRC, *ibid.* para. Letter b, p. 42

³⁶ See Camacho, *et.al.*, *Children...* *ibid.*, paras. 1-4, p. 5

³⁷ As articulated by Mohagher Iqbal, chairman of the Committee on Information of the MILF Central Committee, thus, to wit:

“The MILF entered into a general framework of agreement of intent [to negotiate] with the government of the Republic of the Philippines (GRP) on 27 August 1998.

“We in the MILF reiterate our right to self-determination. This right entails three important elements, namely:

- Islam is our way of life;
- We should be governed according to the teachings of Islam;
- Self-governance—we do not want to be governed by outsiders.”

Accord Mindanao: A View from the MILF—Interview with Mohagher Iqbal, paras. 5-6, p. 1

http://www.c-r.org/acc_min/iqbal.htm

downloaded 17 February 2001

³⁸ For information concerning research initiatives and strategies dealing with children in armed conflict, see Kassimir, Ron and Honwana, Aleinda, *Discussion Paper on the Research Network on Children and Armed Conflict: Structures, Goals, and Activities, Filling Knowledge Gaps: A Research Agenda on the Impact of Armed Conflict on Children, Background Papers, Florence, Istituto degli Innocenti, 2-4 July 2001*, pp. 7-14

³⁹ The following issues and gaps were identified in relation to children in armed conflict:

- More and more children are recruited to participate in armed conflict (especially in the Mindanao region)

-
- *Educational opportunities are lost to these children*
 - *Children are always in danger of being hit by stray bullets and dying in the battlefield*
 - *Lack of documentation of cases*
 - *Early exposure to violence which affect the psycho-social development of children*
 - *Limited access to basic services (health, education, etc.)*
 - *Lack of skilled workers to handle cases of children in armed conflict*
- NCR [National Capital Region]/Luzon Consultation, Convention on the Rights of the Child, Childhope Asia Philippines, Inc., Institute on Church and Social Issues, Plan International, Garden Plaza Hotel, Paco, Manila, 11-12 April 2000, p. 33*

⁴⁰ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...., ibid., para. 4, p. 302*

For a distinction between the Abu Sayyaf and the MILF, see Pimentel, Aquilino, senator of the Republic of the Philippines, Stop the Hostilities for the People's Sake, Mindanao Alert, pp. 1-7

<http://www.info.com.ph/~tfdp/mindal1.htm>

downloaded 21 February 2001

⁴¹ *"We're happy here. We enjoy the training. We have no complaints," said Laina, 14, the trainer's only child.*

"I don't envy the other kids. I enjoy what I'm doing," seconded Adlea, 14, whose father is the MILF's chief negotiator."

Timonera, Bobby, The Warrior is a Girl Child, reprinted from Human Rights Forum, A Publication of the Philippine Human Rights Information Center (PhilRights), Vol. IX, No. 1, July-December 1999, paras. 4-5, p. 4

⁴² *"For [Prof. Rudy] Rodil.... 'The Moros perceive that they are a threatened community, so defense becomes everybody's business'...."*

ibid., para. 7, p. 4

⁴³ *"[Nasser] Marohomsalic [of the Commission on Human Rights] says he has reminded MILF chair Hashim Salamat not to recruit children for the armed struggle.*

"But in the concept of Islam this is not a violation of human rights," argues [Al Haj] Murad [MILF vice chair for military affairs], who adds that the main purpose of teaching children to be combat ready is not to instill violence in their young minds but to help them defend themselves because the camp could be attacked at any time by the enemy.

"It is more inhuman to let them die without having defended themselves," Murad points out."

ibid., paras. 5-7, p. 3

⁴⁴ *Muslims are known for burying their dead on the same day of death.*

⁴⁵ *The Filipino American, ibid.*

⁴⁶ *"For instance, by December 25, 1901, all men, women, and children of the towns of Batangas and Laguna, were herded into small areas within the poblacion of their respective towns. The American troops burned their houses, carts, poultry, animals, etc. The people were prisoners for months."*

Excerpt from The Filipino American (From 1763 to the Present)

<http://www.msc.edu.ph/centennial/filam6.html>

visited 6/27/01

⁴⁷ “Prof. Rudy Rodil, an expert on Maguindanao history at the Mindanao State University-Iligan Institute of Technology, traces the beginnings of training children even earlier than the Moro uprising that started in the late 1960’s.

“‘Even during the American colonization, Moro women and children were already fighting the invaders,’ he said. The involvement of children in armed conflicts, he added, was highlighted in the battles of Bud Dajo and Bud Bagsak in Sulu in 1906 and 1913, respectively. (‘Bud’ means mountain.) Hundreds of Moros were killed in both encounters.

“‘A considerable number of women and children were killed in the fight, number unknown, for the reason that they were actually in the works when assaulted and were unavoidably killed in the fierce hand to hand fighting which took place in the narrow enclosed spaces,’ said an account of the battle of Bud Dajo by Gen. Leonard Wood, the first governor of the Moro Province during the American Occupation (Sources: *Mandate in Moroland*, by Peter Gordon Gowing, 1977, p. 162)

“‘Children were, in some cases,’ used by the men as shields while charging troops,” Wood’s narration continued. About 600 Moros died in Bud Dajo.

Timonera, supra., paras. 3-6, p. 2

⁴⁸ *The Bells of Balangiga Revolutionary Worker #939*, January 11, 1998

<http://www.rwor.org/a/v19/930-39/939/bells.htm>

visited 6/27/01

⁴⁹ “After a U.S. platoon was wiped out in an ambush, Brig. Gen. Jacob W. Smith--a veteran of the Wounded Knee massacre of Native peoples--issued orders to kill "all persons of 10 years and older." “The interior of Samar must be made a howling wilderness,” Smith said. “I want no prisoners, I wish you to kill and burn, the more you kill and burn the better it will please me. I want all persons killed who are capable of bearing arms [10 years of age and above] in actual hostilities against the United States.” (Teodoro A. Agoncillo, *A Short History of the Philippines*, New American Library, 1969)”

Bayoneta, Lydia, Philippine-American War of 1899: The brutal slaughter ignored in U.S. textbooks, Via Workers World News Service Reprinted from the Feb. 18, 1999 issue of Workers World newspaper

<http://www.workers.org/ww/1999/philip0218.html>

visited 6/27/01

⁵⁰ The NPA, composed then of about 60 to 90 fighters, was established by the Communist Party of the Philippines, which was founded by Jose Ma. Sison a year earlier, on 26 December 1968, along the lines of Marxism-Leninism-Maozedong Thought.

See also Camacho, et.al., *Children...*, *ibid.*, p. 4

⁵¹ The recruitment of child soldiers by the CPP-NPA was condemned by the Philippine Commission on Human Rights in its CHR Resolution No. A99-039, which states that:

“xxx this Commission, by reason of the adverse effects on the state of humanity of JELYN DAYONG and in open support for the protection of her human rights, RESOLVED to express its indignation over her recruitment to an armed conflict in violation of and an affront to the spirit of the Convention on the Rights of the Child and the dignity of the Filipino Children.”

Commission on Human Rights, To Express Indignation over the Recruitment of Helyn Dayong to an Armed Conflict in Violation of and an Affront to the Spirit of the Convention on the Rights of the Child and the Dignity of the Filipino Children, CHR No. A99-039, 15 June 1999

⁵² *“In the Philippines, the increasing number of children being recruited by armed groups is now a grave concern. The Armed Forces of the Philippines (AFP) estimates the number of children involved in armed conflict at 13% of the total rebel population. Recent events prove the veracity of this observation. Children account for most of the casualties and captured elements during military troop and armed group encounters. Incidentally, most of these children who have become targets for recruitment by the New People’s Army and the MILF come from indigenous communities. Eyewitness accounts such as those of the AFP and members of the Church Humanitarian Mission which facilitated the release of abducted government personnel in 1999 further confirm this fact.”*

Office of the Presidential Adviser on the Peace Process, Framework for a Comprehensive Program for Children in Armed Conflict, pp. 1-9

⁵³ *US Department of State, Philippines, Country reports on Human Rights Practices-2000, Released by the Bureau of Democracy, Human Rights, and Labor, February 2001, para. 3, p. 7*

<http://www.state.gov/g/drl/rls/hrrpt/2000/eap/index.cfm?docid=764>

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⁵⁴ *This was the subject of the Supreme Court decision in the case of Guazon v. De Villa (181 SCRA 623; 30 January 1990). See Dissenting Opinion of Justice Isagani Cruz, The Decisions and Dissents of Justice Isagani A. Cruz, Selected and Annotated by Cynthia L. Cruz, Central Professional Books, Inc., Quezon City, Philippines, Copyright 1997, pp. 52-58*

⁵⁵ *This law (Republic Act 1700) was repealed by R A 7636, which took effect on October 11, 1992*

⁵⁶ *“Rolly [who was 16 when he joined the NPA] never questioned the necessity of his assignments, nor did he doubt them. In army he knew his role was to obey the decisions of the higher organ. “Looking back,” he says, “ I could have argued out some decisions, that some were not yet feasible at the time, or that there could have been other options. Of course, let us put things in context. At that time, I believed the assignments were correct. Now it seems many could have been spared.”*

Xxx

“I will explain to my children that not all people in authority are bad. For example, it is not true that the entire army or police force is bad. There are kind and respectable people in the Army. And it is not right to go against government simply because you want to. You must have a good reason.”

Camacho, Teresita, I was a Teenage Member of the NPA, paras. 5-6, p. 3 & paras. 2-3, p. 4

⁵⁷ *“Children are also used as soldiers in support functions such as cooks, porters, messengers and spies. While these may seem to be less harmful, these functions entail great hardship and risk bringing all children under suspicion. Reports tell of forces deliberately killing even the youngest children on the grounds that they were dangerous. For girls, their participation often entails being forced to provide sexual service. While children of both sexes might start out in indirect support functions, it does not take long before they are placed in the heat of the battle, where their inexperience and lack of training leave them particularly vulnerable.”*

United Nations, Impact of Armed Conflict..., *ibid.*, para. 3, p. 2

⁵⁸ In fact, the Department of Social Welfare and Development reports a total of 16 children in situations of armed conflict (CSAC) served from 1999-2001 broken down as follows: 1999—7; 2000—8; and 2001—1. Nine of these children had been returned to their families, two had ran away, and five were still at the DSWD center. The children were exploited either as a spy, medic, courier, lecturer, or combatant.

Department of Social Welfare and Development-Davao City, CIAC (Children Involved in Armed Conflict) Rescued/Surrendered, Reports, January-December 1999, January-December 2000, January-March 2001

Department of Social Welfare and Development, Summary of CSAC Cases Served.

While recruitment into the regular Armed Forces of the Philippines is proscribed by law, the state—through its paramilitary forces—employs children. “There are reports that some CAFGU members are younger than 18.”

Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, para. 5, p. 300, citing the US State Department Human Rights Report, 2001; Philippine Daily Inquirer Mindanao Bureau, 12.23.01; Statement by the Philippine government representative at the Asia-Pacific Conference on the Use of Children as Soldiers, Kathmandu, May 2000

Due to the “protracted people’s war” waged by insurgents, the communist guerrillas naturally need to look and depend upon young adolescents and youths as the wellspring of their future revolutionary combat force. No less than the CPP-NPA’s ideological guru, Maozedong, looks upon the youth as the inexhaustible source of red fighters.

Aside from Moslem and communist groups, another armed group, the Cordillera People’s Liberation Army, operating in Abra and Mountain Province, also recruits children.

See also Coalition to Stop the Use of Child Soldiers, Asia Report, Philippines, published May 2000, paras. 3-11, pp. 3 & 7

http://www.child-soldiers.org/reports_asia/philippines.html

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“[Al Haj] Murad [of the MILF] and [Nasser] Marohomsalic [Commission on Human Rights] are resigned to the fact that as long as there is war, children will be exposed to violence. ‘It’s a damned-if-you-do, and damned-if-you-don’t situation,’ Marohomsalic says.”

Timonera, *supra.*, para. 6, p. 4

⁵⁹ “Thirty-three years after the founding of the CPP, armed struggle continues in the countryside. Communist insurgency in the Philippines thrives because of the aggravating poverty, injustice, and inequality in the country.... According to IBON Foundation (2000), an independent research institution, approximately 76 % of the total urban and rural population is mired in poverty.” Camacho, Agnes Zenaida V., Balanon Faye A.G., Verba, Arlyn, *Children Involved in the Armed Conflict in the Philippines, Case Study of Child Soldiers in the New People’s Army, A Unicef Project, Program on Psychosocial Trauma and Human Rights, Center for Integrative and Development Studies, University of the Philippines, February 2001, first para., p.*

3

⁶⁰ *Muyot, supra.*, para. 6, p. 2

⁶¹ *Gardam, ibid.*, last para., pp. 56-57, para. 2, p. 57

⁶² “During flight from areas of conflict, families and children continue to be exposed to multiple physical dangers. They are threatened by sudden attacks, shelling, snipers and landmines. Often, they must walk for days with only limited quantities of water and food. Under such circumstances, children become acutely undernourished and prone to illness, and they are often the first to die. Girls in flight are especially vulnerable to gender-based violence.

xxx

“Children who are displaced but remain in their own countries face perilous circumstances, including a higher risk of dying.... While refugees have often moved outside the ‘war zone’, internally displaced people usually remain within or close to the scene of conflict, and they are often likely to be displaced repeatedly.”

United Nations, *Impact of Armed Conflict...*, *ibid.*, paras. 1 & 3, p. 4

⁶³ “Of 415 cases of child torture from 1976 to 1996, 326 involved children between 15 and 18 years of age who were ‘suspected of being either members of armed dissent groups or supporters/sympathisers of rebel movements’.”

Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, para. 9, p.

300

⁶⁴ “The documented torture cases of children numbered 280 under the Marcos regime, 123 under the Aquino administration, and only 12 so far under the Ramos regime. The high number under Marcos was attributed to the imposition of martial law and those under Aquino, to the total approach strategy or total war policy....

Protacio-Marcelino, *et.al.*, *Torture of Children...* *ibid.*, para. 2, p. 2

“The highest number of victims/survivors were those between 15 to 18 years old, totaling 326, most of them agricultural workers and farmers.... Most of them were suspected to be either being active members of an armed dissent group or as supporters and sympathizers of rebel movements. The majority of victims/survivors—350 of them—were male; there were only 63 female. Male children were more often suspected by the authorities to be child combatants....

“The identified perpetrators in 229 documented child child torture cases were members of the armed forces, those in 56 cases were members of paramilitary groups, and those in 30 others were personnel of the Philippine National Police.”

Protacio-Marcelino, *et.al.*, *Torture of Children...* *ibid.*, Paras. 3-4, p. 3

“They tortured the children for any or combination of the following purposes: to obtain information, force a confession, get a testimony incriminating others, to avenge, sow fear in the community, and to destroy the victim’s self-respect. Victims in 172 cases were beaten up, while 21 were raped....”

Protacio-Marcelino, *et.al.*, *Torture of Children...* *ibid.*, first para., p. 4

⁶⁵ Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, para. 2, p. 22. Also para. 5, p. 41

⁶⁶ “MILF policy dictates that only children above the age of 12 will undergo training, but the culture of the gun actually starts much earlier. At Camp Bushra, for instance, the preschool children’s favorite toy is a well-crafted plastic caliber .45 pistol that looks like a real gun. Children also play with homemade grenade launchers. A boy of about 12 jokingly pointed his launcher at another boy who raised his hands as if in surrender.”

Timonera, *supra.*, last para., p. 2

⁶⁷ “The children most likely to become soldiers are from impoverished and marginalized backgrounds or separated from their families.”

United Nations, *Impact of Armed Conflict...*, *ibid.*, para. 5, p. 1

⁶⁸ See Camacho, et.al., *Children...*, *ibid.*, *Case Studies of Sonia, Bong-Bong, and Brian*, pp. 10-36

⁶⁹ “Based on their individual account, the recruitment process being employed by communists is primarily designed to poison the minds of children. They simply work on the vulnerabilities and weaknesses of their prospective target.

“Let us take the case of Jelyn Dayong. At age 13, she allowed herself to be recruited in order to escape from an unwanted wedding....

“For want of becoming a nurse, fourteen-year old Evangeline Atanoza was convinced by the communists that they will make her a medical personnel once she joins the rebels. Indeed she became one, unaware of the circumstances that awaited her.

“Like any young boy, fourteen year-old Johnny Baligueg was fond of toy guns. When the NPAs visited their place, he was promised that he will be given a real gun if he joins them. But that fancy for guns ended with wounds suffered in an encounter with government troops.

“One day in December 1997, Lonito Lutawan was invited by his cousin to accompany a friend to a nearby barangay. That journey lasted for two years in the company of the NPAs until he was captured after getting wounded in a firefight.

“Definitely, each of these children has his own story to tell.... “

Quoted from the *Armed Forces of the Philippines (AFP), Office of the Deputy Chief of Staff for Civil Military Operations (J7), AFP, Briefing Manuscript on The Exploitation of Minors by Rebels, General Headquarters Conference Room, Quezon City, Philippines, 18 June 1999, last para., pp. 3-4*

⁷⁰ Worth, Richard, *Crime, Justice, and Punishment: Children, Violence, and Murder*, Philadelphia, Copyright 2001, paras. 3-4; last para., p. 47

⁷¹ “Several influences and factors contributed to my early decision to enter the NPA. The mass movement at that time was at its peak. And ever since I was a child, I knew my family was involved in a nationalistic movement, in fact, was engaged in armed struggle. I saw photos of my parents’ friends carrying guns. I knew that people who lived in the house were living incognito. I knew my father was using a different name, I knew his work was different, and I made up stories to our neighbors: where he worked, what he did for a living. I was part of a cover for our family.

xxx

“Rolly grew up idolizing his uncles and aunts who joined the underground movement. They were nationalists and were highly respected in the family. In Rolly’s eyes, they led an adventurous life. How he rooted for the NPAs who fought their way out of a hideout in Project 7 in Quezon City!”

Camacho, Teresita, *I Was A Teenage Member of the NPA*, para. 4, p. 1

⁷² “He [Murad] emphasizes that children are not for combat. ‘There have been no instances where they have been used in combat. None of them has been killed,’ he stresses. He says that women and children usually help out as medics, cooks and carriers of supplies in battle. Children also serve as security for the camp.

The journalists who visited Camp Bushra [of the MILF] found the children working in the kitchen, cooking food for the visitors. They wore their ‘combat uniforms’ only when told to perform for the media. The combat uniform is a black ‘kimon,’ a gown that covers all parts of the body except the hands and the face (some used camouflage cloth just like the soldiers, long black pants underneath and slippers or heeled step-ins.

“There is no active recruitment of children, Murad reiterates. These youngsters, he says, are usually children of muhahideens (Muslim warriors) who live with their parents inside the camps. ‘They would rather stay with their parents in the frontline than wait for news as to what happened to their parents in combat,’ he explains.”

Timonera, *supra.*, paras. 8-10, p. 2

⁷³ “The armed conflict was gory, brutal and costly: around 120,000 people were killed (government estimate), more than one million were made homeless and over 200,000 Muslim refugees fled to Sabah. During the mid-1970s about 80% of the AFP’s [Armed Forces of the Philippines] combat strength was concentrated in Mindanao and Sulu. According to the late president Ferdinand Marcos, 11,000 Philippine soldiers were killed in the first eight years of the war (1972-80).

“The war peaked in February 1974 in a fierce two-day encounter in the town of Jolo. The AFP shelled the town from the sea, then set it ablaze. Estimates of the numbers killed vary from 500 to 2,000, and 60,000 people were made homeless. Elsewhere, major military offensives were directed at Muslim settlements in Maguindanaoan territory, while the Ilaga continued its attacks on Muslim civilians. The war dragged on and the death toll increased.”

Muslim, *et.al.*, Mindanao... *ibid.*, paras. 6-7, p. 7

⁷⁴ PhilRights, Human Rights Situation 2000, *ibid.*, paras. 2-3, p. 5

⁷⁵ Camacho, *et.al.*, Children..., *ibid.*, para. 3, p. 23 & para. 5, p. 25

⁷⁶ Camacho, *et.al.*, Children..., *ibid.*, para. 5, p. 28

⁷⁷ “Although there are various declarations and pronouncements by the CPP-NPA that “minors are purposely removed from combat and military units,” children are still drawn into the conflict in the countryside. There are various reasons for this:

- a. The grinding poverty and destitution that cause entire families and communities to support a cause that promise a better life even if it entails participation in an armed struggle;
- b. Intensive militarization of the countryside which force families and children to ‘protect’ themselves by participation in the armed struggle;
- c. Cultural factors that view children differently; they are perceived to mature earlier, e.g. 14 year old girls are expected to marry and children are involved in the means of production at an early age;
- d. Both parents are combatants such that their children are raised within the armed group;
- e. Peer groups that influence one [an]other in their idealism or adventurism;
- f. Inaccessibility to basic government services, e.g., education, social services, and health; and
- g. Poor monitoring and weak political will on the implementation of the CPP and NPA’s rule of not requiring children as combatants in the field.”

Camacho, *et.al.*, Children..., *ibid.*, first para., p. 8

⁷⁸ Camacho, Teresita, I Was A Teenage Member of the NPA, last para., p. 3
<http://www.childprotection.org.ph>

⁷⁹ Camacho, *et.al.*, Children..., *ibid.*, paras. 6-7, p. 20 & paras. 2-3, p. 21

See also Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, para. 2, p. 23

⁸⁰ “... some minors who were once with the communist movement have complained of being sexually abused by their comrades.” Armed Forces, *ibid.*, para. 2, p. 9

““Girl children and women are put at a greater risk than their male counterparts when they join the ranks of armed groups and during armed conflicts. Considering their vulnerability to sexual advances and other forms of exploitation in such situations, additional efforts should be made to protect girl children and women from being recruited into the ranks of armed groups and to buffer the effects of armed conflict on them.”

Office of the Presidential Adviser on the Peace Process, *Framework for a Comprehensive Program for Children in Armed Conflict*, para. 6, p. 2

⁸¹ “But the seven girls interviewed by newsmen at Camp Bushra said they were ready to become martyrs. ‘I’m ready to die, as long as it is for the Jihad,’” said 14-year-old Najida.

“Their parents were just as proud. ‘This is a noble cause,’ said Abduljalil Panutalan, the acknowledged ‘elder’ in the camp whose 12-year old daughter Karima also test-fired an Armalite. ‘It’s okay with me if my daughter gets killed in combat. She’d be a martyr then.’”

Timonera, *supra.*, paras. 1-2, p. 4

⁸² Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, para. 3, p.

23

⁸³ Timonera, *ibid.*

<http://www.childprotection.org.ph>

See also Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, last para., pp. 301-302

⁸⁴ “Commissioner Nasser Marohomsalic, a Maranao member of the Commission on Human Rights, admits it has become part of the Moro culture to train their young for warfare. He says, ‘Even in the darangan, the epic of the Maranaos, children are already trained in martial arts such that even before they reach maturity, they have already gone to battle.’ He adds that this is a test of a child’s prowess and a chance for him or her to earn renown not only for himself/herself but also for his/her community. He himself was taught the same during his early years in Lanao del Sur.”

Timonera, *supra.*, para.

⁸⁵ For instance:

“Almost all titles granted under the Land Registration Act of 1902 were for large private holdings. By 1912 there were 159 major plantations (100 hectares or more) in Mindanao, 66 of them owned by Americans, 39 by Filipinos (mostly Christians), 27 by Europeans, and 27 by Chinese. The Moros and Lumads became impoverished squatters on their own land.”

Muslim, Macapado A. and Cagoco-Guiam, Rufa, *Mindanao: Land of Promise, Accord Mindanao*, para. 4, p. 5

http://www.c-r.org/acc_min/muslim.htm

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See also Muslim Filipinos: A Profile, *Mindanao Alert*, pp. 1-3

<http://www.info.com.ph/~tfdp/minda6.htm>

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⁸⁶ See Collas-Monsod, Solita, *Poverty in Mindanao*, *Business World Internet Edition*, 9 February 1999, pp. 1-3

<http://www.gsilink.com/~go2net/spade.htm>

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⁸⁷ Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, first para., p. 21

⁸⁸ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, first para., p. 21

⁸⁹ In the strict sense, however, certain “threshold” requirements must be met for Common Article 3 of the 1949 Geneva Conventions and Protocol II to apply. See Gardam, last para., pp. 129-130

Also Gardam, footnote 29, p. 129

See also Sandvik-Nylund, Monika, *Caught in Conflicts, Civilian Victims, Humanitarian Assistance and International Law*, Institute for Human Rights, Abo Akademi University, Turku, Abo, Copyright 1998, last para., pp. 18-19; paras. 2-3, p. 19

In any case, Article 3 provisions “have an absolute character which is reinforced by the co-existence of the laws of human rights.” Gardam, *ibid.*, para. 3, p. 168

The approach taken in this work relies upon and primarily involves the moral persuasive force of the humanitarian content of these instruments which are sought to be fused with local community ethos, as advocacy and lobbying tools in demanding accountability before warring forces, including the state, for their observance.

States however “did not deny the need to comply with Article 3 in any circumstances.” Gardam, *ibid.*, last para., pp. 168-169

⁹⁰ For special protection of children during non-international armed conflicts, see Dutli, *Captured...*, *ibid.*, last para. P. 7, paras. 2-6, p. 8

⁹¹ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, para. 5, p. 422

⁹² “The treaty applies to both national armed forces and to non-governmental armed groups.”

Amnesty International, *Hidden...*, *ibid.*, para. 3, p. 46

⁹³ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, paras. 1-3, p. 422

⁹⁴ For a discussion of the background and Article 13 of Protocol II, see Gardam, *ibid.*, pp. 125-129

⁹⁵ The Philippines signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 8 September 2000.

⁹⁶ This was by virtue of Senate Resolution 109.

Adhikain Para sa Karapatang Pambata, Ateneo Human Rights Center, Ateneo Law School, *The Convention on the Rights of the Child and the Philippine Legal System*, para. 2, p. 17

See also the progenitor of the Convention on the Rights of the Child, *ibid.*, p. 11.

⁹⁷ Adopted by the International Labour Conference at its 87th session in Geneva on 17 June 1999.

⁹⁸ Adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998

See also Cassese, Antonio, *The International Criminal Court, 1998-1999*, 12 *Interights Bulletin*, pp. 53-54, *Selected Materials (ICRM.34/301(AB), Master of Laws in Human Rights (2000-2001)*, Faculty of Law, University of Hong Kong

Fowler, Jerry, *The International Criminal Court: A Measured Step Toward Ending Impunity, 1998-1999*, 12 *Interights Bulletin*, pp. 55-59, *ibid.*

⁹⁹ *The ICCPR was signed by the Philippines on 19 December 1966 and ratified on 23 October 1986. The Optional Protocol to the ICCPR was likewise signed by the Philippines on 19 December 1966 and ratified on 22 August 1989.*

¹⁰⁰ *The ICESCR was ratified by the Philippines on 7 June 1974 and had entered into force for the Philippines on 3 January 1976.*

¹⁰¹ *The Convention was acceded to by the Philippines on 17 April 1973 and entered into force for the Philippines on 14 August 1973.*

¹⁰² *These include the Convention on the Elimination of All Forms of Discrimination Against Women, which was signed by the Philippines on 15 July 1980 and ratified on 5 August 1981, the Convention on the Prevention and Punishment of the Crime of Genocide, which entered into force for the Philippines on 12 January 1951, the International Convention on the Elimination of All Forms of Racial Discrimination, which entered into force for the Philippines on 4 January 1969, the International Convention on the Suppression and Punishment of the Crime of Apartheid, which entered into force for the Philippines on 25 February 1978, and the Convention on the Political Rights of Women, which entered into force for the Philippines on 12 December 1957, among others.*

¹⁰³ *Article 38(2), Convention on the Rights of the Child*

¹⁰⁴ *Article 1, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

¹⁰⁵ *Article 2, Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

¹⁰⁶ *Article 38(3), Convention on the Rights of the Child*

¹⁰⁷ *Article 4(1), Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

¹⁰⁸ *Article 4(3), Optional Protocol*

¹⁰⁹ *Article 7(1) ILO Convention 182*

¹¹⁰ *Article 3(a), ILO Convention 182*

¹¹¹ *Article 3(d), ILO Convention 182*

¹¹² *Otunnu, ibid., para. No. 31, p. 7*

¹¹³ *Article 8(e)(vii), Rome Statute for the International Criminal Court*

¹¹⁴ *Article 8(e), Rome Statute for the International Criminal Court*

¹¹⁵ *Cruz, Isagani A., International Law, Quezon City, Philippines, Copyright 1971, 1977, 1980, 1984, 1985, para. 3, p. 176*

¹¹⁶ *Article 126(2), Rome Statute*

¹¹⁷ *“The State shall defend:*

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“The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.”

Section 3(2), Article XV, 1987 Philippine Constitution

¹¹⁸ *Coalition to Stop the Use of Child Soldiers, Child Soldiers..., ibid., paras. 5 & 6, p. 421*

¹¹⁹ *“Recent developments in international law have confirmed that children under 15 should not be recruited to any armed forces (either voluntarily or by force). Any recruitment of the under-15s is a war crime under the jurisdiction of the International Criminal Court, in both international and non-international conflict. This confirms the prohibition on recruitment of child soldiers in international humanitarian law,*

specifically the Additional Protocols to the Geneva Conventions (Article 77(2) of Additional Protocol I, Article 4(3) © of Additional Protocol II.”

Amnesty International, *Hidden...*, *ibid.*, first para., p. 47

¹²⁰ “And what is peace? All peace theorists agree peace is not just the absence of war (negative peace in Galtung’s words), but ‘social justice in all its forms’ (positive peace).... In this context, the true opposite of peace is not war but structural violence. Another peace researcher put it this way: a peace which does not include social justice is no peace, but a law-and-order ‘piece-meal peace’—a peace for the privileged....

Xxx

To the affluent society, peace means more directly the absence of a nuclear war and disarmament, the maintenance of higher standards of living, and the protection of individual freedom. To... developing countries... peace means, first of all, the absence of social injustice and political instability, and escape from misery, poverty, and hunger. This kind of peace is hard to attain for the developing countries who are caught in a vicious cycle....

Xxx

... peace to the people in the developing countries means not only the absence of disorder and injustice from society... but also nonintervention in domestic affairs by big powers and unhampered economic development.”

Diokno, *supra.*, para. 3, pp. 6-7

¹²¹ “The struggle for peace—which does not mean a struggle for the eradication or denial of conflict but for their fair and critical confrontation and a search for solutions—is an imperative demand of our times. Peace, however, does not precede justice. For that reason, the best way to fight for peace is to make justice.” Freire, *Letters...*, *ibid.*, para. 7, p. 185

“Upon the prodding of some peace advocates and church people, and in the midst of war, President Corazon C. Aquino declared the period 1990-2000 the Decade of Peace. In it she said: ‘... the peace we seek is not just an absence of conflict, but we seek peace through an authentic Development with Justice, whose fruits benefit all, and which shall form the foundation of a true and lasting peace.’”

Diokno, *The 1986-1987 Peace Talks...*, *ibid.*, last para., p. 96

¹²² “... there are strong links between *jus cogens* and humanitarian law. The relation appears in the peremptory nature of the principles of humanity which affect the human conscience.”, Kasto, *supra.*, para. 6, p. 1

See also Kasto, *ibid.*, paras. 3-4, p. 47

¹²³ Note for instance Article 9 of the Brussels Declaration of 1874 providing that “the laws, rights and duties of war applicable not only to the army but likewise to militia and corps of volunteers complying with the following conditions. (1) That they have at their head a person responsible for his subordinates. (2) That they wear some settled distinction badge recognizable at a distance. (3) That they carry arms openly. (4) That in their operation they conform to the laws and customs of war.”

Cited by Kasto, *ibid.*, para. 2, p. 3

This is specially so in the Philippine context wherein the Islamic secessionist war and the communist revolution are carried out by means of guerrilla warfare.

¹²⁴ Freire, *Letters...*, *supra.*, para. 2, p. 186

¹²⁵ Cited by the Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *ibid.*, sub-para. 1, p. 40

¹²⁶ Timonera, *supra.*, pp. 1-2

¹²⁷ Article 126(1), *Rome Statute for the International Criminal Court*

¹²⁸ See also *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, last sentence, para. 2, p. 26. Also paras. 3-4, p. 39; p. 40; paras. 4-6, pp. 42-43

¹²⁹ The “straight 18” position advocates for the setting of the age of 18 “as the minimum age for all forms of military recruitment and service.”

Amnesty International, *Hidden Scandal, Secret Shame, Torture and Ill-Treatment of Children*, Copyright Amnesty International Publications 2000, para. 3, p. 46

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, para. 6, p. 422

¹³⁰ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, last para., p. 423

¹³¹ “Based on the Joint Declaration of The Hague in September 1992 and the material on the history of the efforts to negotiate a political settlement, the following points can logically be considered as the most viable areas for possible future agreements which can become the building blocks of a more comprehensive accord envisaged to resolve the armed conflict:

- a. Human rights and international humanitarian law;
- b. Guidelines on peaceable assembly and recognition of the rights of people’s organizations;
- c. Participation of significant sectors and their organizations in important political and economic fora;
- d. Electoral reforms, political participation, and possible constitutional reforms; and
- e. Socioeconomic reforms.

“There has been no dearth of proposals on these issues from citizens, and peace groups as well as people’s organizations. They certainly represent a significant sign of hope. They also prove that, given the chance, a breakthrough can be made since there are substantive areas of possible agreement supported by significant sectors of the population.” Garcia, *supra.*, last para., pp. 11-12

¹³² “Experience has shown the importance of looking for mutually acceptable and trust-building initiatives not merely unilaterally declared postures.” Garcia, *ibid.* para. 2, p. 10

¹³³ Article 12, paras. 1-2, *Convention on the Rights of the Child*

¹³⁴ Articles 13-15, *Convention on the Rights of the Child*

¹³⁵ “Last Christmas, we tried to bring to the government the peace agenda from the children, by the children, with the children: not our own ideas of what it should be. And they [the children] came out basically with the day-to-day expression of children’s rights, like ‘Can we eat three square meals a day?’ ‘Can we go to school now?’ [Classes are no longer [held }where war is going on. ‘Can we expect a doctor when we are sick or at least a decent health service?’ ‘Can we play?’ These questions have really hit us as really basic. They’re right under our noses, but we’re really looking so far ahead.” Prof. Elizabeth Marcelino, *Reactions and Open Forum*, Garcia, *supra.*, para. 2, p. 25

¹³⁶ Amartya Sen emphasizes the need for this form of political activism on the part of the children and the people, thus, to wit:

“The real issues that have to be addressed lie elsewhere, and they involve taking note of extensive interconnections between political freedoms and the

understanding and fulfillment of economic needs. The connections are not only instrumental (political freedoms can have a major role in providing incentives and information in the solution of acute economic needs), but also constructive. Our conceptualization of economic needs depends crucially on open public debate and discussions, the guaranteeing of which requires insistence on basic political liberty and civil rights.

“I shall argue that the intensity of economic needs adds to—rather than subtracts from—the urgency of political freedoms. There are three different considerations that take us in the direction of a general preeminence of basic political and liberal rights:

- 1) their direct importance in human living associated with basic capabilities (including that of political and social participation);
- 2) their instrumental role in enhancing the hearing that people get in expressing and supporting their claims to political attention (including the claims of economic needs);
- 3) their constructive role in the conceptualization of ‘needs’ (including the understanding of ‘economic needs’ in a social context).”

Sen, Amartya, *Development as Freedom*, New York, last para., p. 147-148 & para. 2, p. 148

¹³⁷ Article 6, *Convention on the Rights of the Child*

Adhikain Para sa Karapatang Pambata, Ateneo Human Rights Center, Ateneo Law School, *the Convention on the Rights of the Child and the Philippine Legal System*, edited by Sedfrey M. Candelaria, Copyright 1997, pp. 1-205

¹³⁸ Articles 17, 28, *Convention on the Rights of the Child*

Adhikain Para sa Karapatang Pambata, Ateneo Human Rights Center, Ateneo Law School, *the Convention on the Rights of the Child and the Philippine Legal System*, edited by Sedfrey M. Candelaria, Copyright 1997, pp. 1-205

¹³⁹ Articles 7-8, 10-11, 19, 20-23, 30, 32-38, 40

Adhikain Para sa Karapatang Pambata, Ateneo Human Rights Center, Ateneo Law School, *the Convention on the Rights of the Child and the Philippine Legal System*, edited by Sedfrey M. Candelaria, Copyright 1997, pp. 1-205

¹⁴⁰ For a discussion of the development of international humanitarian law, see Suter, Keith, *An International Law of Guerrilla Warfare, The Global Politics of Law-Making*, London, Copyright 1984, pp. 5-17

¹⁴¹ “This historical development of humanitarian law indicates the specificity of this law which has been always connected with armed conflicts which cause human sufferings. Humanitarian law has grown gradually for the protection of victims of wars and armed conflicts. The nature of these circumstances created by the activities of the conflicting parties characterizing the humanitarian law by certain specificity which distinguished its rules from other rules of law.” Kasto, *ibid.* para. 4, p. 4

¹⁴² See ICRC, *ibid.*, pp. 52-56

¹⁴³ “The rules of humanitarian law and human rights have certainly developed separately, but they have a common foundation, respect for human life and dignity. As Meron argues:

‘The idea of humanity has become the common denominator of human rights law and of humanitarian law. The fact that these two systems of law have different historical and doctrinal origins should not obscure the tremendous rapprochement between them that has already taken place. Current trends point to an even greater reliance on the shared idea of humanity.’

*This convergence between the two systems can only operate to the advantage of civilians in non-international armed conflicts as the regime of human rights knows no distinctions based on State boundaries. The international community now acknowledges that it has a legitimate interest in the furtherance of some minimum standards of human rights and principles of humanitarian law in non-international armed conflict. To date, however, there is very little agreement as to the practical implementation of this interest.” Gardam, *ibid.*, para. 2, p. 175*

¹⁴⁴ *International Committee of the Red Cross, Article 3 Common to the Four Conventions, Basic Rules of the Geneva Conventions and Their Additional Protocols, Geneva, September 1983, last para., p. 52*

Also Humane Treatment, para. No. 4, pp. 55-56

¹⁴⁵ *See also de Preux, J., Special Protection of Women and Children, International Review of the Red Cross, No. 248, p. 292-302, para. Letter E, p. 5*

<http://www.icrc.org/ihrceng.nsf/c125622...d0f14aadcf41256227004b249f?OpenDocument>

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¹⁴⁶ *“In cases not covered by the [Geneva] Conventions, the Protocol [I] or other international agreements, or in the case of denunciation of these agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience.” ICRC, *ibid.*, last para., p. 8*

¹⁴⁷ *“... the principles of humanity... are essential for the protection of life and moral and material liberty of man.” Kasto. *Ibid.*, para. 2, p. 12*

¹⁴⁸ *For the issues that have to be resolved in the GRP-NDF negotiations, see Garcia, *supra.*, last para., pp. 12-13*

¹⁴⁹ *Note, for instance, the need for such a broad framework as pointed out by Prof. Miriam Coronel Ferrer, in Garcia, *ibid.*, paras. 2-3, p. 21, which the human rights framework could fulfill.*

¹⁵⁰ *In her book, The 1986-1987 Peace Talks..., *ibid.*, Diokno juxtaposed the contrasting positions of the NDF and the GRP. See last para., pp. 103-104*

¹⁵¹ *While human rights discourse could help identify common grounds of interest to the state and rebel groups, the animosity built over the years, not to mention their insistence on their own political positions, could also influence them to seek to manipulate this discourse in order to outmaneuver each other and advance their goal. This utilitarian approach to the human rights discourse however could be neutralized by arming the citizens, children, and civil society groups and the media with a human rights perspective that would help empower them to critically engage in such a discourse on a long term basis. The liberative education espoused by Paulo Freire would help arm the citizenry with independent and critical thinking necessary for human rights defense against any attack from all sources.*

¹⁵² *“The Special Representative is working to mobilize public opinion and political pressure against this terrible trend.”*

Otunnu Olara, Report of the Special Representative of the Secretary-General for Children and Armed Conflict, United Nations General Assembly, 53rd Session, Agenda Item 106, Promotion and Protection of the Rights of A/53/482, Children, 12 October 1998, Para. No. 20, p. 6

My heartfelt thanks to Professor Andrew Byrnes for his suggestion for the author to look into the Special Representative’s report.

¹⁵³ “United Nations agencies and international civil society actors should pursue quiet diplomacy with Government and non-State forces and their international supporters to encourage the immediate demobilization of child soldiers and adherence to the Convention on the Rights of the Child.

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“All peace agreements should include specific measures to demobilize and reintegrate child soldiers into society. There is an urgent need for the international community to support programmes, including advocacy and social services, for the demobilization and community reintegration of child soldiers.”

United Nations, *Impact of Armed Conflict...*, *ibid.*, paras. 5 & 7, p. 3

¹⁵⁴ For information concerning psychosocial intervention initiatives with respect to children affected by armed conflict, see Boothby, Neil and Arntson, *Psychosocial Program Intervention: Moving Beyond the Events-Symptoms Model, Save the Children, Filling Knowledge Gaps: A Research Agenda on the Impact of Armed Conflict on Children, Florence, 2-4 July 2001*, pp. 15-21

¹⁵⁵ “An urgent priority is to demobilize everyone under 18 years of age from the armed forces....

“The process of reintegration must help children establish new foundations in life.”

United Nations, *Impact of Armed Conflict on Children, Special Concerns*, paras. 5-6, p. 2

<http://www.un.org/rights/concerns.htm>

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¹⁵⁶ Article 6 of the Protocol also imposes upon states parties to “take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilised or otherwise released from service.”

See *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *ibid.*, last para., pp. 27-28 and para. 2, p. 28; second sentence, paras. 4 & 7, p. 301; last para., p. 302

¹⁵⁷ See Tuazon Ramon R. and Dym Mary Ebitha Y., *Handbook for Frontline Advocates of Children’s Rights*, excerpt from “*Handbook for Frontline Advocates of Children’s Rights*,” Asian Institute of Journalism and Communication and United Nations Children’s Fund, featured paper for January 2001, pp. 1-26

<http://www.childprotection.org.ph>

¹⁵⁸ *PhilRights, Human Rights Situation 2000*, *ibid.*, paras. 4-7, p. 5, p. 6, first para., p. 7

¹⁵⁹ See *Table on Peace Agreements*

¹⁶⁰ G.A. res. 47/135, annex, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1993) <http://kvc.minbuza.nl/links/nlplura107.html>

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¹⁶¹ “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.” Article 27, ICCPR

¹⁶² For a profile of the people of Mindanao, see *Muslim et.al., Mindanao...*, *ibid.*, paras. 3-44, p. 1, paras. 2-3, 6-7, p. 2, paras. 1-5, p. 3

http://www.c-r.org/acc_min/muslim.htm

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¹⁶³ See *Accord Mindanao, Lumads and the Peace Process, Interview with Ramon Moaming*, pp. 1-2

http://www.c-r.org/acc_min/moaming.htm

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¹⁶⁴ See Santos, Soliman, *Constitutional Accommodation of a Bangsa Moro Islamic Region*

http://bugsbytes.tripod.com/bb_newsletter_0004_06.html

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¹⁶⁵ “The Preamble to Protocol II refers to the fact that international instruments relating to human rights already offer a basic protection to the human person.” Gardam, *ibid.*, footnote No. 31, p. 130

¹⁶⁶ As embodied in Articles 3 and 4 of the Optional Protocol, the “voluntary recruitment” of below 18s is allowed whereas such recruitment is proscribed “under any circumstances” on the part of armed groups distinct from that of the state.

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, last para., pp. 422-423

¹⁶⁷ See Diokno, *The 1986-1987 Peace Talks...*, *ibid.* last para., p. 103 and last para., pp. 104-105

¹⁶⁸ In one meeting, the NDF presented its agenda to Government representatives, particularly its proposal on human rights and humanitarian law.”

Diokno, The 1986-1987 Peace Talks..., *ibid.*, last para., pp. 104-105

Note also the Basic Rules of the New People’s Army, decreeing that “all officers and men are prohibited from committing the slightest damage against the interest of the masses,” cited by Muyot, *supra.*, para. 5, p. 2

¹⁶⁹ See Camacho, *et.al.*, paras. 4-5, p. 6 & paras. 1-3, p 7

¹⁷⁰ See Camacho, *et.al.*, *Children...*, *ibid.*, last para., p. 6

¹⁷¹ Timonera, *supra.*, paras. 1-6, p. 1

“Sultan Kammad Gunda, the trainer, said the seven girls were part of a class of 25 women of various ages who finished the MILF’s ‘basic military training’ at Camp Bushra last June. He has been training Muslim women for more than 10 years now.

“All year round, some 300 to 500 Muslim women undergo training in this camp, said Jannati Mimbantas, one of the ranking MILF leaders at the camp.”

ibid., para. 7, p. 1

¹⁷² “According to NGO sources, MILF policy allows children as young as twelve to undergo training. The MILF is reported to train girls as well as boys in madrasas (religious schools) and other camps. According to one MILF leader, some 300 to 500 women undergo training at Camp Bushra near Butig town in any one year, some aged between 10 and 16 years. Recently obtained footage of armed groups shows children holding M-16 and AK assault rifles.

“Although Al-Haj Murad, the MILF’s military spokesman, claimed that no one younger than 18 could join a combat unit, Hashim Salamat, the MILF leader, said: [w]e are planting the seeds of struggle in the minds of young people so that future generations will be able to fight for freedom if it doesn’t come in our lifetime. We want to find peaceful solutions... but we have to prepare ourselves to fight’.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *ibid.*, paras. 2-3, p. 302

¹⁷³ “But it is above all by taking preventive action—by making the rules of international humanitarian law as widely known as possible—that genuine respect for the rights of children can be secured.”

Dutli, *Captured...*, *ibid.*, last para., pp. 8-9

Formal as well as non-formal education could help popularize these principles alongside conflict resolution and conflict prevention strategies.

¹⁷⁴ “In the brief cease-fire period in 1986, NGOs such as the Peace Promotion and Monitoring Council and the National Citizens Peace Monitoring Council, participated in the efforts to supervise the conduct of the hostilities.” Garcia, *supra.*, para. 4, p. 5

¹⁷⁵ “The media play a crucial role in the peace process and the radio has the greatest influence on grassroots communities. Media set the agenda for public debate. It may not participate directly in [peace] negotiations, but its intermediary role as facilitator and vehicle for information about the process can make or break the peace. Most reporters, editors and producers, however, are looking for a sensational news story.”

Cagoco-Guiam, Rufa, *A Critical Partnership: Civil Society and the Peace Process, Accord Mindanao*, para. 4, p. 4

http://www.c-r.org/acc_min/cagoco.htm

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¹⁷⁶ See in particular special protection of children, Muyot, *supra.*, paras. 7-8, p. 2
Also last para., p. 9

¹⁷⁷ Examples include the *Guidelines on Handling and Treatment of Children Involved in Armed Conflict*, issued by the Armed Forces of the Philippines, which gives “paramount consideration to “the best interest of the child” (which consists of two pages) and the Memorandum issued by the Department of National Defense to the Armed Forces of the Philippines and the Office of Civil Defense implementing the Inter-Agency Memorandum of Agreement on “The Handling and Treatment of Children Involved in Armed Conflict” consisting of five pages.

Moreover, the Commission on Human Rights issued its Human Rights Advisory (CHR-A6-2000) “On the Treatment of Non-Combatants Especially of Children and Women in Internal Armed Conflicts” dated 9 May 2000 consisting of four pages.

The Department of Social Welfare and Development likewise issued a Joint Memorandum concerning the Role Delineation on the Implementation of Services to Children in Situations of Armed Conflict dated 17 April 2000.

See also *Coalition to Stop the Use of Child Soldiers, Philippines, Asia Reports*, May 2000, *National Recruitment Legislation, National Recruitment Practice, and Child Participation in Armed Conflict*, pp. 1-3

The enactment of these laws springs from the lobbying efforts of civil society groups, especially children’s and women’s. The entry into government service of former activists, coupled with the painful lessons of the martial law period, also help provide impetus for government to veer towards the direction of human rights.

¹⁷⁸ Government of the Republic of the Philippines, *Initial Reports of States Parties due in 1992: Philippines*. 03/11/93. CRC/C/3/Add.23. (State Party Report) Consideration of Reports submitted by States Parties under Article 44 of the Convention, *Initial Reports of States Parties due in 1992, Addendum, Philippines*, 21 September 1993, pp. 6-7

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¹⁷⁹ See *Muyot, supra*.

¹⁸⁰ “After two non-violent civilian uprising within just a short span of years between them, it might be said that popular mass action is fast becoming an institutionalized enterprise. Should the streets now be the venue for the exercise of popular democracy?”

Honorable Justice Vitug, *Separate Concurring Opinion*

Supreme Court of the Philippines, *en banc* decision, *Joseph E. Estrada vs. Aniano Desierto* [G.R. Nos. 146710-15, 2 March 2001]

Joseph E. Estrada vs. Gloria Macapagal-Arroyo [G.R. No. 146738, 2 March 2001]

¹⁸¹ One notable example of this is the issuance by the Government of the Republic of the Philippines of Executive Order No. 152 creating the National Program for Unification and Development on 24 January 1994. The program aims, among others, “to provide a community-based income generating projects for women and children affected and involved in internal armed conflict in communities caught in armed conflict.”

See National Program for Unification and Development Council, *Program Rationale and Design for Women and Children in Internal Armed Conflict*, pp. 1-10

¹⁸² “In June the CHR protested the increased recruitment of minors (boys and girls under the age of 18) by the Communist NPA. The growing number of NPA members under 18 years of age who were captured or surrendered to government forces confirmed the widespread use of children in both combat and noncombat roles by the NPA. The Department of Social Welfare and Development (DSWD) provided care and assistance to these children after they were turned over by the military to the civilian authorities.”

U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 1999 Country Reports on Human Rights Practices, para. 2, p. 8

http://www.state.gov/www/global/human_rights/1999_hrp_report/philippi.htm

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¹⁸³ The problem, however, is the dearth of research and documentation and absence of a monitoring mechanism on this concern, which at the same time should be addressed by these efforts.

¹⁸⁴ This thesis however is limited as far as ruthless bandit groups exploiting popular symbols are concerned such as the self-styled Abu Sayyaf who tries to conceal its own rapacious adventures by mouthing Islamic revivalist slogans.

Even in such situations, though, to the extent that human rights principles have been entrenched in the popular mind, this human rights framework could help alienate such ruthless bandit groups and mobilize community action to deprive them of support.

¹⁸⁵ Note, however, the difficulty of ensuring compliance with international humanitarian law by warring parties. See *Gardam, supra.*, para. 3, pp. 57-58

¹⁸⁶ “... humanitarian law... differs from the law of peace, as it is developed from the customs and practices of war. Humanitarian law is a specific law, it has grown gradually in circumstances of war and armed conflicts.

“Thus its specificity relates to the nature of wars and armed conflicts, it is an integral part of the laws of war.” Kasto, *supra.*, para. 3, p. 5

¹⁸⁷ “... the failure of the 1949 Diplomatic Conference to define adequately the scope of a conflict covered by Article 3 (Geneva Conventions), other than the very helpful statement that it applies to ‘non-international’ conflicts, means that there is now an additional blurring of interfaces between conflicts; the interface international/non-international has been joined by non-international/civil disturbance.” Suter, *supra.*, para.2, p. 16

“To conclude, Article 3 of the 1949 Geneva Conventions are not clearly applicable to guerrilla warfare and its provisions were vague enough to permit a variety of interpretations even in a conventional non-international conflict.” Suter, *supra.*, last para., p. 17

¹⁸⁸ “This characteristic of the internal armed conflict in the Philippines, where there is no official state of war and where ordinary penal laws are applied to the insurgents and their supporters, is precisely the reason why considerations of human rights and those of international humanitarian law are closely related in Philippine practice.” Muyot, *supra.*, para. 2, p. 1

¹⁸⁹ “Thus ‘principles of Humanity’ do not concern only the war but also the peace, and when humanitarian law governs social and human relations and protects human rights, human groups and peoples as well as individuals on equal footing and without discrimination it protects in fact the peace and eliminates all causes of war....” Kasto, *supra.*, para. 3, p. 9

¹⁹⁰ “The application of the international humanitarian law treaties depends on whether there is an actual armed conflict or not, whether it is an international or non-international one, and whether the State concerned is a party to a particular treaty.”

Coalition to Stop the Use of Child Soldiers, *Child Soldiers...*, *supra.*, para. 2, p. 421

¹⁹¹ Muyot, *supra.*, para. 6, p. 2

¹⁹² Even peace negotiations serve as vehicles for advancing their own propaganda war.

¹⁹³ “A top government official of the Ramos administration, Jose Almonte, best presented the extreme concentration of wealth and power in the hands of a few individual and families and foreigners. According to him:

- The top 5.5 % of all the landowning families own 44% of all the arable land in the country;
- The richest 15% of all families account for 52.5% of all the nation’s income;
- In 1991, only 10 corporations accounted for 26% of all revenues; 40% of all net income; and 34% of the total assets of the top 1000 corporations;
- Only 60 to 100 political clans control all elective positions at the national level.” Camacho, *et.al.*, *Children...*, *ibid.* para. 5, p. 3

¹⁹⁴ In Memorandum Order No. 88 signed by then President Joseph Ejercito Estrada, the Philippine state referred to its approach as the “Strategy of Total Approach” designed “to effectively address armed conflicts and insurgencies in the country.”

Ejercito Estrada, Joseph, Memorandum Order No. 88 Approving the National Peace and Development Plan and Directing All Concerned Agencies to Adopt and Support the Plan, 21 January 2000

See *Camacho, et.al., Children..., supra., para. 5, p. 5*

¹⁹⁵ On the part of the government, this is achieved by publicizing accounts of child members of the NPA, on one hand, and, on the part of the MILF and the NPA, by dramatizing the alleged atrocities committed by the state, on the other hand.

“There have been continued instances, however, of military commanders exposing captured children to the media for propaganda purposes.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., supra., para. 2, p. 301

“... NDF representatives were quoted as claiming that the NPA observed the UN Convention on the Rights of the Child and did not use child soldiers: “There is already a policy... stating that children under 18 will not be recruited to combat functions.’ The opposition group claimed government forces had both targeted children in indiscriminate attacks and falsely claimed that children captured in attacks were child soldiers for propaganda purposes.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., supra., last para., p. 302

See also *Camacho, et.al., para. 2, p. 8*

¹⁹⁶ “[I mentioned at several points] the possible participation of citizens [and parallel efforts of] the friends of the process. How could [these] lead toward advances in [the process]? One of [these] was in fact discussed in terms of the framework for justice, peace and reconciliation and the framework for social change. What is very important is that the sectors themselves have elaborated on this kind of a framework through many years.

“If you look at the basic peace agenda worked out by the sectors themselves, [you will find that] this, in fact, is already a framework for social justice, especially if you look at what can be dealt with immediately, in the medium-term and in the long-term, and what will require policy directions in the future. Also, what can be addressed by the executive, the legislative, and the public in the future.” *Garcia, supra., para. 3, p. 33*

¹⁹⁷ This could be realized by adopting international human rights norms and standards as the “blueprint” for history-making in the manner described by Paulo Freire. See *Freire, Letters..., supra., paras. 3-4, p. 186, first para., p. 187*

¹⁹⁸ According to Article 4, paragraph 3© of Protocol II:

“Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.”

“This provision is an absolute one covering direct or indirect participation in hostilities, i.e. by gathering information, transmitting orders, transporting munitions or foodstuffs or committing acts of sabotage. The obligation imposed on States party here is stricter than that applicable in situations of international armed conflict.”

Dutli, Maria Teresa, Captured Child Combatants, International Review of the Red Cross, No. 278, p. 421-434, 31 October 1990, para. No. 2, p. 3

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“According to Government sources, the NPA had 9,463 fighters in June 1999, and between 13 and 18 percent of opposition forces during the past two years were

children under 18. Unicef estimates that 3 % of NPA members are boys and girls under the age of 18. Some 20 to 25 % of new recruits are reportedly children. It is claimed that NPA cadres are generally aged between 16 and 25 years.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., supra., para. 3, p. 301

In February 2000, the NPA announced that it would no longer accept recruits below 18 years of age. Jorge Madlos, a spokesperson for the National Democratic Front in Mindanao, said the NPA regional commands had been ordered to raise the minimum age requirement for recruits from 15 to 18. He stated that the NDF would allow children below the age of 18 to join medical teams and non-combat operations.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., supra., para. 5, p. 301. Also para. 6, p. 301

“In many countries, military training and indoctrination is provided through schools and youth movements, often as a means of bolstering defence preparedness or recruitment levels.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., supra., last para., p. 22

¹⁹⁹ “According to [Al Hajj] Murad [MILF vice chairman for military affairs], having guns has become part of the Moro culture. ‘Every Moro looks at the gun as a symbol of prestige and manhood’.”

Timonera, supra., para. 10, p. 2

²⁰⁰ See ECPAT International, *Standing Up for Ourselves: A Study on the Concepts and Practices of Young People’s Rights to Participation*, Manila, Philippines, September 1999, International Young People’s Action Against Sexual Exploitation of Children, AusAID, and UNICEF, Copyright United Nations Children’s Fund, 1999, pp. 1-185

²⁰¹ “The person who has reached conscientization is able to connect facts and problems and to understand the connections between hunger and food production, food production and agrarian reform, agrarian reform and reactions against it, hunger and economic policy, hunger and violence and hunger as violence, hunger and voting against reactionary politicians and parties, whose discourse may be deceptively progressive.” Freire, *Letters...*, supra., para. 2, p. 183

²⁰² “The issue is not just one of direct physical violence but also of disguised or hidden violence: hunger, the economic interests of the superpowers, religion, politics, racism, sexism, and social classes.” Freire, *Letters...*, supra., para. 6, p. 185

²⁰³ See Ateneo de Manila University, Department of Political Science, School of Social Sciences, *Understanding Military Intervention in Politics*, pp. 1-4

<http://www.pcij.org/perspectives/military.html>

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²⁰⁴ Articles 1 and 2, Charter of the United Nations

²⁰⁵ “It is a struggle against the disrespect for public things, the lies, and the lack of scruples.” Freire, *Letters...*, supra., para. 4, p. 187

²⁰⁶ Philippine Center for Investigative Journalism, *Know the STRUCTURES OF GOVERNMENT and what the CODE OF ETHICS expects from the elected*

<http://www.i-site.ph/knowsecondlevel.cfm>

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²⁰⁷ Freire, *Teachers...*, supra., para. 6, p. 89

²⁰⁸ This is referred to by some writers as the so-called third generation right.

²⁰⁹ *Perhaps no other sector in civil society has a greater potential for promoting peace advocacy than the academe, but only a few academic institutions in Mindanao have engaged in the promotion of peace and development.*”

Cagoco-Guiam, *A Critical Partnership*, *supra.*, para. 2, p. 5

²¹⁰ Freire, *Letters...*, *supra.*, paras. 2-3 & 5, p. 127

²¹¹ See Bello, Walden, *Losing Control, The Rich and Powerful Increasingly Ponder Emigration, Perspective, Business World*, 27 June 2001. Also accessible at www.focusweb.org and the focusphnewsletter of www.yahogroups.com, Issue No. 25, 15 June 2001

²¹² “... the use of children as soldiers is a global issue requiring a global response.”

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., *supra.*, first para., p. 29

²¹³ “Conscientization changes one’s perception of the facts, based on a critical understanding of them.

“A person who has reached conscientization is capable of clearly perceiving hunger as more than just not eating, as the manifestation of a political, economic, and social reality of deep injustice.” Freire, *Letters...*, *supra.*, paras. 6-7, pp 182-183

²¹⁴ *This requires the cultivation of virtues imperative for the pedagogical process to be carried out in this manner. See Freire, Paulo, Teachers...*, *supra.*, paras. 3-4, pp. 3-4, para. 3, p. 4, para. 4, p. 8, para. 3-5, p. 45

²¹⁵ “It is in fact necessary to insist on the process that is history’s nature. Historical, progressive practice is not an exception. No democratic dream, even that of socialism, can feed the ideal of sanctification for men and women. That of being more, yes, for it is their historical orientation. This orientation, however, which is just an orientation and not a fate or destiny, may gradually consolidate through the liberating struggle or it may gradually deteriorate and intensify existing dehumanization.” Freire, *Letters...*, *supra.*, para. 3, p. 174

²¹⁶ Freire, *Teachers...*, *supra.*, paras. 2-3, p. 6

²¹⁷ Freire, Paulo, *Pedagogy of the Oppressed*, Translated by Myra Bergman Ramos, London, Copyright 1972, para. 2, p. 24

²¹⁸ “... we bet on the popular classes’ ability to mobilize, organize, empower themselves, and know...” Freire, *Letters...*, *supra.*, first para. , p. 136

²¹⁹ *Coalition to Stop the Use of Child Soldiers, Child Soldiers...*, *supra.*, para. 3, p. 421, para. 2, p. 422 & para. 2, p. 423

²²⁰ Freire, *Letters...*, *supra.*, para. 4, p. 130

²²¹ Fernando, W.J. Basil, *Demoralization and Hope, Creating the Social Foundation for Sustaining Democracy: A Comparative Study of the Ideas of N.F.S. Grundtvig of Denmark and B.R. Ambedkar of India*, A Publication of Asian Human Rights Commission, Copyright 2000, para. 2, p. 12, para. 2, p. 13, para. 2, p. 15, last para., p. 45, first & last paras., pp. 46-47, pp. 51-53

²²² “But what if the poor have lost their voice altogether? What if the sheer disuse of their vocal chords has deprived them of the power of speech altogether?”

Xxx

“Invisible men are what Filipinos are in the heart of this country in the first year of the third millennium after Christ. Or invisible women, as the women’s groups are bound to insist, women living even more phantasmagoric lives than men in this country.”

De Quiros, Conrado, Tongues on Fire, speech before the French Business Association of the Philippines, 24 April 2001, para. 6, p. 6 & para. 5, p. 7

Wysiwyg://40/http://www.inq7.net/vwp/2001/may/01/vwp_1-1.htm

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²²³ *Philippine history shows the penchant of Filipinos to discuss political issues in a manner that demystifies and turns upside down larger than life political figures such as the friars during the period of soberania monacal of the Spanish colonial period and recently by firing political satires against former President Joseph Ejercito Estrada, which contributed to the swelling of protesters who forced him to step down from office.*

Freire, Letters..., supra., para. Nos. 3 & 8, pp. 128-129

²²⁴ *“An individual educator must, in order to go beyond the learner’s level of knowledge, set out from that level.” Freire, Letters..., supra., para. 2, p. 133*

²²⁵ <http://www.pepe.org/>

visited 6/28/01

²²⁶ *See Popular Educators’ Declaration*

<http://www.pepe.org/subdir/declaration.htm>

visited 6/28/01

²²⁷ *ICRC, supra., last para., pp. 11-12*

²²⁸ *See Bickmore, Kathy, Teaching Conflict and Conflict Resolution in School, (Extra-)Curricular Considerations, University of Toronto, pp. 233-259*

Also Avery, Patricia G., Johnson, David W., Johnson, Roger T., and Mitchell, James M., Teaching An Understanding of War and Peace Through Structured Academic Controversies, University of Minnesota, pp. 260-280

Hall, Robin, Learning Conflict Management Through Peer Mediation, Charles Sturt University, pp. 281-298

Harris, Ian M., Types of Peace Education, University of Wisconsin at Milwaukee, pp. 299-317

Raviv, Amiram, Oppenheimer, Louis, Bar-Tal, Daniel, editors, How Children Understand War and Peace, A Call for International Peace Education, San Francisco, Copyright 1999, pp. 1-342

²²⁹ *“... a long-term peace education program in schools and in communities, in churches and in the media may be helpful in creating a climate conducive to a sustainable peace. Peace can only be sustained by a generation that is equipped to live in peace with one another, able to settle differences in nonviolent ways through dialogue or through discussions or debate which must be part of ongoing political processes in the country.” Garcia, supra., para. 2, p. 14*

²³⁰ *Freire, Letters..., supra., last para., pp. 147-148, paras. 2-5, p. 148*

²³¹ *“Providing education and vocational opportunities for former child combatants may prevent them from rejoining military units, and at the same time improve the economic security of their families. For a former child soldier, an education is more than a route to employment. It can also help to normalize life and to develop an identity separate from that of the soldier.... Specific measures may be required, such as establishing special classes for former child soldiers, who can then be reintegrated into regular schools.”*

United Nations, Impact of Armed Conflict..., supra., para. 5, p. 2

²³² *“The participation of children must be recognized in all peace agreements so that effective planning can be made for reintegration programmes.”*

United Nations, *Impact of Armed Conflict on Children, Special Concerns*, para.5, p. 2

Freire, *Teachers...*, *supra.*, paras. 2-6, pp. 7-8

²³³ Freire, *Letters...*, *supra.*, para. 6, p. 127

²³⁴ Freire, *Letters...*, *ibid.*, paras. 2-3, p. 151

²³⁵ Freire, *Letters...*, *ibid.*, last para., pp. 146-147

²³⁶ Civil society think tanks “play a number of critical roles” in society. See *Think Tanks and Civil Societies in a Time of Change*, Weaver R. Kent and McGann James G., *Think Tanks & Civil Societies, Catalysts for Ideas and Action*, McGann, James & Weaver R. Kent, editors, first para., p. 3

²³⁷ “A person who has reached conscientization has a different understanding of history and of his or her role in it. He or she will refuse to become stagnant, but will move and mobilize to change the world. He or she knows that it is possible to change the world, but impossible without the mobilization of the dominated. He or she knows very well that victory over misery and hunger is a political struggle for the deep transformation of society’s structures.” Freire, *Letters...*, *supra.*, para. 3, p. 183

²³⁸ “Coping and resiliency. In most of the cases, the children did not receive intervention, their inherent resiliency and predisposition helped them through the ordeal. Vanistendael identified these factors that build and strengthen resiliency: social networks and unconditional acceptance, skills in coping, a good self-esteem, and the capacity to discover some meaning and order.

“The older children’s political belief helped them cope. For Instance, Nitoy, who was arrested, beaten up and detained, expected the worst once he decided to fight for his rights and freedom. Joyce, who was raped repeatedly by soldiers while in detention, coped by continuing to fight against the perpetrators of human rights violations and exploitation through advocacy work. Vangie, a teenager who belonged to an indigenous people of the Cordilleras, was detained and charged with subversion after she and her family opposed a logging concession. Throughout her prolonged detention, she relied on her faith that she did not do anything wrong—that she was fighting for her life, her land, and her people.”

Protacio-Marcelino *et.al.*, *Torture of Children...*, *supra.*, paras. 8-8, pp. 5-6

²³⁹ “That path is one of tireless struggle, one that is to be lived well, strategically planned, with the savvy and skill of a serpent and not just the docility of a lamb.” Freire, *Letters...*, *supra.*, para. 4, p. 180

²⁴⁰ For a deeper discussion and illustrations of resiliency, see Banaag Jr., Cornelio G., M.D., *Resiliency Stories Found in Philippine Streets*, AusAID, Unicef, National Project on Street Children, Manila, 1997, pp. 1-107

²⁴¹ Arellano-Carandang, Dr. Ma. Lourdes, *Listen to Their Inner Voice: Street Children Speak through Their Drawings and Metaphors*, Asian Institute of Journalism and Communication, Unicef, AusAID, National Project for Street Children, Manila, Copyright 1999

²⁴² “Psychosocial interventions include therapy and counseling.... Other methodologies include play, in which a case worker could explain, evoke, emphasize from the perspective of the children. Group counseling and therapy are facilitative in the recovery of the child, parents and family in terms of socialization. By integrating with children having similar experiences, a victim/survivor feels that he is not alone, thus he/she learns and gains support and strength from the group.”

Protacio-Marcelino, *et.al.*, *Torture of Children...*, *supra.*, last para., pp. 6-7

²⁴³ A caveat: Child abuse could also transform victims into abusers themselves. See Worth, *ibid.* paras. 2-3, pp. 50-51

²⁴⁴ See Reyes, Yvette, *Trauma Healing: A Step to Peace and Reconciliation*, 23 August 2000, pp. 1-4

http://www.codewan.com.ph/CyberDyaryo/features/f2000_0823_02.htm

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²⁴⁵ "... belligerents apply rarely rules and respect laws. This reality indicates the impossibility of application of laws of war and that the only imperative factor which obligates the parties in armed conflicts to respect human rights is the human conscience itself, which is the only moral guarantee for human treatment of prisoners of war and civilians in armed conflicts." Kasto, *supra.*, para. 1, p. 5

²⁴⁶ Delgado, Richard, *Storytelling for Oppositionists and Others*" A Plea for Narrative, 87 Michigan LR 2411, National Protection of Human Rights 2000-2001 Materials Volume 3, Topic 3, Master of Laws in Human Rights, Faculty of Law, University of Hong Kong, paras. 1-2, pp. 579-580

²⁴⁷ "With my cousin, I catch fish at the lake. One night, while we were doing so, there came some NPA's (that was a long time ago). They surrounded us; for me, not all of them are bad. They have some objectives which are for the good of the country. While we were fishing, they came over and pointed their guns at the 15 of us.... Someone much younger than I pointed his gun at me; I pissed in my pants. I thought they were going to recruit us. My cousin talked to them. We found out they were supposed to kill us, all of us, because someone claimed that we were catching fish and selling them at a very high price and that we were using dynamite.... One asked me if I know anyone from the government who commits abuses, the police perhaps."

Quoted from the sharing of a child concerning the law and legal protection. National Project on Street Children, *The First National Congress of Street Children*, La Salle Greenhills, San Juan, Metro Manila, Philippines, 15-19 April, 1991, National Project on Street Children, Children's Laboratory for Drama in Education, Copyright 1991, first para., p. 71

²⁴⁸ "The Left revolutionary forces believe that the only way to free the Filipino people from historical exploitation and oppression is through armed struggle. To effectively counter the rebellion, the government launched in 1987 what is called a 'total war' policy. The strategy combines intensive military operations in the countryside with psychological warfare.

"The military operations adversely affected 1,272,000 civilians; 55.89% of them were children. The operations included torture as a means to repress and terrorize the rural population and discourage it from supporting the rebellion."

Protacio-Marcelino, Elizabeth; De la Cruz, Maria; Camacho, Agnes Zenaida; and Balanon, Faye Alma, *Torture of Children in Situations of Armed Conflict*, Program on Psychosocial Trauma and Human Rights, Center for Integrative and Development Studies, University of the Philippines, paras. 2-3, p. 1

<http://www.childprotection.org.ph>

²⁴⁹ Otunnu, *supra.*, para. No. 152, p. 24

²⁵⁰ Delgado, Richard, *Storytelling for Oppositionists and Others*" A Plea for Narrative, 87 Michigan LR 2411, National Protection of Human Rights 2000-2001 Materials Volume 3, Topic 3, Master of Laws in Human Rights, Faculty of Law, University of Hong Kong, para. 2, p. 579

²⁵¹ Delgado, Richard, *Storytelling... supra.*, paras. 2-3, p. 580

²⁵² See Protacio-Marcelino, Elizabeth, de la Cruz, Teresa C., Balanon, Faye G., Yacat, Jay A., Francisco, Carolina M., and Sanchez, Roderick O., *Evolving Definitions of Child Abuse Through Participatory Action Research, Psychosocial Trauma and Human Rights Program, Action Research Team-Bahay Tuluyan and the Arci Cultura E Svilippo, Center for Integrative and Development Studies, University of the Philippines*, excerpts, pp. 1-109

<http://www.childprotection.org.ph>

²⁵³ Delgado, Richard, *Storytelling... supra.*, paras. 1-2, p. 529 (second column)

²⁵⁴ See for instance *Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report, Global Report on Child Soldiers 2001, United Kingdom, Copyright May 2001*, pp. 45-48

See also the position of the ICRC on the *Optional Protocol on the CRC on the involvement of children in armed conflict*, Stephane... *ibid.* para. 5, p. 1

²⁵⁵ "Unequal distribution of incomes is one of the major causes of poverty for a large segment of the population. There is a huge disparity in income distribution among the members of the population." Camacho, et.al., *Children...*, *supra.*, para. 4, p. 3

²⁵⁶ This poem serves as an example of how street children could advocate for their own rights:

*"Streetchildren we are, but we are do-gooders
The honor of our parents are foremost in our minds
Our fervent wish is to better our lives
That's why we try very hard*

*Streetchildren we are, poor man's sons and daughters
Our parents have no riches
We wish you well, even as we cry for help*

*We are born with poverty for a twin brother
Cradled in suffering, deep sadness
Little educated, deprived in most things
But our hopes remain, we're not giving up*

*Our food may not taste as good
As that of the rich but it's just as well
What differs is the cost
Theirs is expensive
Ours is cheap*

*The aim of this poem which you now hear
Is to air my lament to the authorities
Please take care of streetchildren like us
So we may not feel left out in society*

*Already I'm extending all my thanks
For all the help
Those helping hands we won't ever forget
As long as we live, their memory will stay."*

- *We Children of the Streets*, composed and recited by 14 year-old Marissa Salvador during the First National Congress of Street Children, *ibid.* p. 65

²⁵⁷ Following the First National Congress of Street Children, the participants went to the Office of the President, to the House of Representatives and to the Senate and presented their own recommendations concerning issues involving street children, *supra.*, pp. 88-89

²⁵⁸ See *The Role of Churches, NGOs and the Media, The 1986-1987 Peace Talks...*, *supra.*, Diokno, pp. 69-72

²⁵⁹ Freire, *Teachers...*, *supra.*, para. 4, p. 10

²⁶⁰ Freire, *Letters...*, *supra.*, paras. 5-6, pp. 16-17

²⁶¹ "It is truly difficult to make a democracy. Democracy, like any dream, is not made with spiritual words but with reflection and practice. It is not what I say that says I am a democrat, that I am not racist or machista, but what I do. What I say must not be contradicted with what I do. It is what I do that bespeaks my faithfulness or not to what I say." Freire, *Teachers...*, *supra.*, para. 7, p. 67

²⁶² Current undertakings are becoming more human rights oriented due to the growing realization that developmental issues are essentially human rights concerns requiring an integrative, holistic approach pursuant to the dictum that human rights comprise an integrative whole body of civil, political, social, economic, and cultural rights.

²⁶³ "International political and military support for armed forces and armed groups using children... has in many cases deepened conflicts and the involvement of children."

Coalition to Stop the Use of Child Soldiers, Child Soldiers..., para. 2, p. 22

²⁶⁴ "No reflection about education and democracy can exclude issues of power, economic, equality, justice and its application, and ethics." Freire, *Letters...*, *supra.*, para. 4, p. 146

²⁶⁵ For a rich discussion of the myriad ways of availing of the Internet for human rights activism, see Hick, Steven, Halpin, Edward, and Hoskins, Eric, *Human Rights and the Internet, Great Britain and United States of America*, Copyright 2000, pp. 1-

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²⁶⁶ That is, those operating in the grassroots.

²⁶⁷ See Muyot, *supra.*

²⁶⁸ The basic political unit of Philippine society.

²⁶⁹ While the human rights framework is necessary to correct the social and political imbalances that breed children in armed conflict, those using this approach should also internalize and strive to live up to its directive norms and practices. While civil society groups play a crucial role in meeting the challenge of democratization as well as children and people empowerment, their members should also be conscious of and guard against certain problematic tendencies such as turfism and competition over funding among some of their members.

²⁷⁰ Media's catalytic role in society has been proven in the former Soviet Union. For accounts of how the exercise of the right to freedom of expression through the vibrant press and other means of communication could trigger and accelerate the process of democratization—ensuring transparency and openness and paving the way for political accountability—read

DeLuca, Anthony R., *Gorbachev and The Collapse of The Soviet Union, Chapter 4, Gandhi, Mao, Mandela, and Gorbachev: Studies in Personality, Power, and Politics*, Westport, Connecticut, London, Copyright 2000, last para., p. 108, first para., p. 110,

last para., pp. 111-112, para. 2, p. 113, first para., p. 114, para. 2, p. 115, last para., p. 116-117, paras. 2-3, p. 117, paras. 3-4, p. 118-119, paras. 2-3, pp. 119-120, para. 2, 2-4, pp. 120-121, last para. P. 121, paras. 1-3, p. 122, paras. 1 & 3, p. 125, last para., p. 137, last para., pp. 138-139, para. 2, p. 139, para. 2, p. 142

²⁷¹ Otunnu, *supra.*, para. No. 124, p. 20

²⁷² “... principles of humanity are not just moral rules which have their effect on human conscience... these regulate social relations of human societies....”

“... they are... the necessary rules for the safeguard of the interest of humanity. They form the humanitarian law.” Kasto, *supra.*, paras. 7, p. 11

²⁷³ The media as an avenue for children’s struggle is relatively advanced considering the existence of radio programs, some supported by government and some by NGOs and private entities, run by children who dish out commentaries and reports on children’s issues. The Philippines further holds the distinction of having a child commissioner in its National Anti-Poverty Commission, trailblazing in the arena of giving flesh to the principle of child participation enshrined in the CRC.

²⁷⁴ Freire, *Letters...*, *supra.*, para. 2, p. 149

²⁷⁵ “The principles of humanity could be considered as moral norms which have legal imperative effect on human conscience, that it cannot refuse to accept these principles when they govern a situation in which one should act or not act in a certain manner....”

“Therefore Principles of Humanity are imperative rules, no body can refuse their application because it is absolutely prohibited to kill an innocent man, or not to protect him when he needs protection.”

Kasto, *supra.*, paras. 4-5, p. 6

²⁷⁶ “This consideration could lead to the acceptance of the humanitarian norms as *jus cogens*, without regard to conventional nature of the rules of international law which require the consent of the State is pre-conditional in order to determine their obligatory character.” Kasto, *supra.*, para. 8, p. 1

²⁷⁷ Examples of which are violations of Common Article 3 of the four Geneva Conventions, regulating the conduct of non-international armed conflicts, and whose application does not affect the legal status of the parties to the conflict.

See Suter, para. 2, p. 15

²⁷⁸ This is corroborated by the Philippine Commission on Human Rights, an independent constitutional body, which declared that, to wit:

“The Chairman and the four members of the Commission on Human Rights (CHR) during their recent trip to Mindanao have confirmed that various human rights violations on women and children and non-combatants have been committed in the armed-conflict between the government forces and the rebel groups. The violations consist of: (1) The recruitment of children for armed combat; (2) the use of women and children as human shields during emergencies; (3) the taking of hostages which include women and children and even civilians; (4) the employment of torture and inhuman treatment of captives; (5) the death of civilians and non-combatants due to indiscriminate bombings; and (5) the blockade that adversely affect the economic life of non-combatants and civilians.”

Commission on Human Rights, *On the Treatment of Non-Combatants Especially of Children and Women in Internal Armed Conflicts*, CHR-A6-2000, CHR Advisory, 9 May 2000, Quezon City, Philippines, first para., p. 1

http://www.codewan.com.ph/hrnow/policy/chr-advis_0704.htm

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²⁷⁹ “Nobody can minimize the important role of the UN in implementing the principles of international humanitarian law.” Kasto, *ibid.* para. 1, p. 19

²⁸⁰ Freire, *Letters...*, *supra.*, paras. 5-6, p. 151

²⁸¹ “... humanitarian law... is connected with the real existence of society, it expresses the more deep and permanent needs which concern the human being. Therefore principles of humanity are superior than other rules of law, because they are universal in their nature, which other rules of law among them international law are less universal.” Kasto, *supra.*, last para., pp. 11-12

²⁸² “In general, the goals of peace advocates were and continue to be as follows:

- to develop an agenda for peace;
- to build a peace constituency; and
- to work for another round of negotiations”

Diokno, *The 1986-1987 Peace Talks...*, *supra.*, first para., p. 97

²⁸³ “Agreements are only as good as the kind of effective enforcement that can be put in place. Thus, effective monitoring mechanisms which incorporate citizens and institutions with nationwide reach and credibility are essential if they are to work.

“At the same time, it is worthwhile noting that the most effective sanction widely relied on in this regard is the moral judgement rendered by one’s own people expressed in a clear and unequivocal manner through mutually acceptable channels. Nevertheless, it is still important that the parties institute their own systems of reprimanding persons who abuse their authority or member who violate agreements.” Garcia, *supra.*, paras. 2-3, p. 13

²⁸⁴ “Its provisions provide no protection to civilians during military operations, apart from the requirement that persons taking no active part in hostilities should be treated humanely and the prohibition of violence to life and person.” Gardam, Judith Gail, *Non-Combatant Immunity as a Norm of International Humanitarian Law*, Dordrecht, Boston, London, Copyright 1993, pp. 1-199, last para., p. 26

²⁸⁵ Cited by Suter, *supra.*, para. 2, p. 15

²⁸⁶ Otunnu Olara, *Report of the Special Representative of the Secretary-General for Children and Armed Conflict*, United Nations General Assembly, 53rd Session, Agenda Item 106, Promotion and Protection of the Rights of A/53/482, Children, 12 October 1998, Para. No. 24, p. 7

²⁸⁷ Muyot, *supra.*, para. 3, p. 1

²⁸⁸ *Nicaragua Case*, International Court of Justice, cited by Gardam, *supra.*, para. 3, p. 170

See also Plattner, Denise, *Protection of Children International Humanitarian Law*, *International Review of the Red Cross*, No. 240, p. 140-152, 30 June 1984, pp. 1-10

<http://www.icrc.org/ihrceng.nsf/c125622...e79bfd2669412561f60051176e?OpenDocument>

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²⁸⁹ “During the year 2000 the Ecumenical Commission for Displaced Families and Communities (ECDFC) has reported the displacement of 85,992 families, from 378 barangays, due to conflicts between the military and the insurgents.” Camacho, *et.al.*, *Children...*, *supra.*, last para., pp. 5-6

²⁹⁰ US Department of State, *Philippines*, *ibid.* para. 11, p. 6, paras. 2 & 4, p. 7

²⁹¹ “The other point I would like to raise is that there has not been enough attention devoted to women. Perhaps others could write it better, but I would like to acknowledge that we would not be where we are [today] if leadership functions were

not performed by women; if women did not play the kind of role and provided the kind of qualities to the peacemaking process. In the International Colloquium, it was clear to all of us from Cambodia, Nicaragua and the Philippines, especially, and also the former Yugoslavia, that the contributions of women was very crucial and gave a very different quality to these efforts.” Garcia, *supra.*, para. 3, p. 35

²⁹² “... the respect for humanitarian law in all kinds of war and conflicts is mandatory. Because rules of war and military conflicts form norms of *jus cogens*....” Kasto, *supra.*, para. 2, p. 48

²⁹³ Gardam, *supra.*, para. 5, p. 170

²⁹⁴ “... humanitarian law imposes on the belligerents, of whatever motives they fight for, the respect for its norms, that they should respect the rules of war, where their violation constitutes a breach of *jus cogens*.” Kasto, *supra.*, para. 7, p. 48

“... only fundamental norms of humanitarian nature had the character of *jus cogens*.” Kasto, *supra.*, para. 5, p. 47

²⁹⁵ “Although there is a divergence of views concerning the orbit and scope of humanitarian law, but there is now a growing international consensus in favour of the humanization of much of the rules of international law concerning the protection of peoples, individuals and human rights. This is an important development of humanitarian law that would strengthen the enforcement of its rules as norms of *jus cogens*.” Kasto, *supra.*, para. 2, p. 2

²⁹⁶ “The appointment of a National Unification Commission (NUC) in the early months of the Ramos administration demonstrated that the President could not ignore the demands of a people that sought negotiated solutions to the armed challenges facing a government supported only by a quarter of the electorate

“Undoubtedly, this point was made clear in the numerous public consultations conducted by the NUC mainly under the auspices of the church and community leaders in different parts of the country. What people pointed out time and again was the importance of dealing with substantive issues designed to tackle the basic ills of the land, such as the elimination of poverty and the effort to achieve economic equity, the recognition of the rights of indigenous peoples, and the respect for people’s basic rights, as well as the improvement of the administration of justice, the establishment of a pluralist democratic society and the protection of the environment.” Garcia, *supra.*, paras. 3-4, p. 6

²⁹⁷ Toward this direction, the media could strive to reexamine and reorient itself from being personality-oriented to being issue- and principle-based, an approach that would provide an opening for the voice of grassroots people and children to be heard. This entails a change in the political culture of Filipinos which remains largely personality-centered.

²⁹⁸ See Garcia, *supra.*, last para., p. 19

²⁹⁹ The need for human rights sensitivity on the part of some media practitioners may be demonstrated by reading an account of how journalists dealt with a suspected robber, who happened to be a Muslim.

See Gomez, Herbie, *Journalists show Anti-Muslim, Anti-Gay Biases*

http://www.bulatlat.com/archive/004muslim_bias.htm

visited 6/25/01

³⁰⁰ See *Philippine Journalism Review, More News Needed on Jolo News Blackout, Monitor, PJR Online, Center for Media Freedom and Responsibility, Vol. XI, No. 4, December 2000, pp. 1-2*

<http://www.cmfr.com.ph/pjr0012/0012jolo.html>

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³⁰¹ “Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians and protected as such. They may obtain identity card attesting to their status as journalists.” ICRC, *Journalists*, *ibid.* para. Letter f, p. 43

See, however, Sandvik-Nylund, *last para.*, p. 19

³⁰² Examples of this include the Code of Professional and Ethical Conduct of the Philippine Press Institute, *sun.star Code of Standards and Ethics*, Television Code of the Kapisanan ng mga Brodkaster sa Pilipinas, Florentino-Hofilena, Chay, *News for Sale: The Corruption of the Philippine Media*, Philippine Center for Investigative Journalism, Center for Media Freedom and Responsibility, Quezon City, Copyright 1998

³⁰³ “What seems to be far more important, therefore, is the conviction properly conveyed by both sides that there is an unequivocal commitment to a resolution of the armed conflict by political means. This position would require, at the very least, that lines of communication are kept open, that different channels of dialogue are probed and alternative venues explored—even in the most difficult of times.” Garcia, *supra.*, para. 3, p. 8

³⁰⁴ “Insofar as they are affected by a situation of armed conflict, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment by virtue of the [Geneva] Conventions and the Protocol shall be treated humanely in all circumstances and shall benefit from the fundamental guarantees without any discrimination based on any pretext whatsoever. Among the fundamental guarantees, it is specified that the person, the honour, the convictions and religious practices of all such persons must be respected. The following acts in particular are prohibited under any pretext whatever, whether committed by civil or military agents:

a) violence to the life, health and physical or mental well-being of persons, particularly:

—murder;

—torture of all kinds, whether physical or mental;

—corporal punishment;

—mutilation;

—outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;

—the taking of hostages;

—collective punishments;

—threats to commit any of the foregoing acts.

Finally, the guarantees of judicial procedure... also form part of the fundamental guarantees accorded to all persons affected by an armed conflict.” ICRC, *Fundamental guarantees*, *supra.*, pp. 44-45

³⁰⁵ “However, human rights instruments cannot protect civilians from the horrors of modern day guerrilla warfare conducted without respect for the principle of non-combatant immunity.” Gardam, *supra.*, first para., p. 175

³⁰⁶ “The humanitarian law at the present time does not only regulate the conduct of belligerents in war and armed conflicts, but it governs nowadays a wide scope of objects concerning the protection of the human person, his rights and fundamental freedoms as well as the conduct of belligerents in armed conflicts whether of international or non-international character..” Kasto, *supra.*, para. 2, p. 46

³⁰⁷ “However, even while the first talks were floundering, citizens’ efforts, especially those undertaken by churchpeople and concerned members of the community of nongovernmental organizations (NGOs), were also taking place. Representatives of the Catholic Bishops Conference of the Philippines and the National Council of Churches in the Philippines, as well as the Association of Major Religious Superiors in the Philippines, all played important roles, not only in keeping the people aware of the issues in the way of peace, but in encouraging the people to work for justice to bring about a just peace.” Garcia, *supra.*, para. 3, p. 5

³⁰⁸ “... the purpose of humanitarian principles was and is to restrict what is called the ‘military necessity’ which does not accept logic and humanitarian considerations which are in contradiction with the military necessity.” Kasto, *supra.*, para. 8, p. 9

³⁰⁹ “According to the principles of humanity life is precious, and cannot be destroyed without penalty which should be imposed on the criminal.” Kasto, *supra.*, para. 4, p. 8

³¹⁰ Toward this end, the grassroots sectors could invoke Protocol II which applies to non-international armed conflicts.

³¹¹ PhilRights, *Human Rights Situation 2000*, *supra.*, paras. 2-10, p. 7, paras. 1-8, p. 8

³¹² “Citizens’ initiatives led to the formation of movements such as the Coalition for Peace (CfP) in early 1987, the National Peace Conference and the People’s Congress and the Multisectoral Peace Advocates in 1990. There was support for a Peace Vote campaign in the elections in 1992, as well as discreet exploratory Citizens’ Peace Missions in the same year. Communities in places such as Sagada in the Mountain Province, Cantomanyog in Negros Occidental, and Bituan, Tuluhan in North Cotabato organized ‘peace zones’ to create the social space for dialogue and seek ways of dealing with their immediate concerns.

“The point that must be made here is that citizens refused to accept the fact that the end of the peace talks meant the end of the peace efforts. If the issue of peace and the substantive agenda related to the causes of the conflict have been kept alive, it was in large part due to a peace constituency that somehow had gathered momentum.” Garcia, *supra.*, paras. 5-6, p. 5

³¹³ “Just as I could never accept that the fight for liberation could be restricted to the struggle of individuals, I could never accept that it could be reduced to the fight of women against men, of blacks against whites. The fight is one of all human beings toward being more. It is a fight to overcome obstacles to the humanization of all. It is a fight for the creation of structural conditions that make a more democratic society possible. The fight is not, as I said in the previous letter, for a democratic society so perfect it suppresses sexism, racism, and class exploitation once and for all. The fight is for the creation of a society capable of defending itself by punishing with justice and rigor the perpetrators of abuse; it is for a civil society capable of speaking, protesting, and fighting for justice. The final struggle is not to satisfy men and women, but to recognize them as finite, incomplete, and historically bound people who are capable of denying goodness and becoming evil, but also of knowing goodness and becoming loving and fair.” Freire, *Letters...*, *supra.*, 3, p. 160

³¹⁴ “... geographical areas, ranging in size from the area covered by a purok or neighborhood to a province, which community residents themselves declare to be no-war zones, maintained and reinforced by the community’s sustained, creative expressions of commitment to peacebuilding.

“The first zone was established in Naga City (zone of peace, freedom and neutrality) in 1988. Four other zones were subsequently declared: Sagada, Mountain Province; Tabuk, Kalinga-Apayao; Sitio Cantomanyog in Candoni, Negros Occidental; and Barangay Bituan in Tulunan, North Cotabato. A number of institutions such as schools and churches were also declared ‘pockets of peace.’”

Except for the Naga City peace zone, these ‘pockets of peace’ demanded a ‘demilitarization of the area by the Armed Forces of the Philippines (AFP) and the New People’s Army (NPA). Generally, the peace zone communities asked for two conditions:

The regulation of armed movements and avoidance of instances that could lead to an outbreak of violence; and

The promotion of dialogue and the ‘spirit of pluralism’ within the zone.”

Diokno, The 1986-1987 Peace Talks..., supra., paras. 1-2, p. 89

For the military’s and the rebels’ reasons for rejecting these peace zones, see pp. 90-94

“The matter of peace zones remains to this day an area of disagreement between the NDF and peace advocates.”

Diokno, The 1986-1987 Peace Talks..., supra., para. 4, p. 99

See also Muyot, supra., first para., p. 9

³¹⁵

In defense of the [peace] zones, the Coalition for Peace (CfP) argued that:

One, the peace zones were managed entirely by the communities whose responsibilities included monitoring the agreement in the zone, conducting consultations in the community, liaising with the armed parties, and overseeing development projects.

Two, the zones were able to ‘negotiate their space’ with the AFP and NPA, a few more successfully than the rest, to the extent that the communities ‘have gained a level of capability to intervene or mediate in situations involving issues or incidents between the contending armed parties which occur within their immediate or neighboring vicinity.

These peace zones were also able to start ‘explor(ing) the space for addressing the roots of the armed conflict on the local level through the pursuit of a local development agenda on their own terms....

Xxx

“The Multisectoral Peace Advocates (MSPA), to which various church representatives, NGOs and people’s organizations belong (including the CfP), asserted that peace zones, like limited ceasefires in disaster areas or during Christmas, are first and foremost humanitarian responses to conflict situations. They do not by themselves constitute peace. But they can help bring about peace. For communities weary of war, this is no small matter.

Xxx

“Whether peace zones are effective as an alternative mechanism of conflict resolution is a separate subject altogether. Preliminary accounts tend to suggest that as long as the initiatives emanate from local communities in areas of conflict, and people are sufficiently organized, these zones can provide, as a minimum measure, some relief from war.”

The 1986-1987 Peace Talks..., supra., Diokno, last para., pp. 94-96

³¹⁶

“If official talks do not break ground, somehow peace initiatives coming from citizens can suggest small steps that one day might just result in some kind of breakthrough that will define a turning point in the country’s prospects for peace.

Hopefully, when that moment arrives there will no longer be any turning back.” Garcia, *supra.*, last para., pp. 14-15

³¹⁷ “The concept of the principles of humanity developed through customs of war: they have been transforming into norms regulating the conduct of belligerents. These customs and norms are humanitarian in character.” Kasto, *supra.*, para. 7, p. 9

³¹⁸ “... specific rules such as proportionality, the prohibition on direct attacks on civilians, the prohibition of indiscriminate and disproportionate attacks, and the prohibition of means and methods of warfare that cause unnecessary suffering, can and should be regarded as necessary and proper derivations from the principles of humanity”. Gardam, quoting from Meron, first para., p. 178

³¹⁹ “... as an important instrument for regulating the human issues which faced humanity...”, Kasto, *supra.*, pp. 1-95, p. 1

³²⁰ US Department of State, Philippines, *ibid.* last para., p. 6

³²¹ US Department of State, Philippines, Country reports on Human Rights Practices-2000, Released by the Bureau of Democracy, Human Rights, and Labor, February 2001, para. 3, p. 7

<http://www.state.gov/g/drl/rls/hrrpt/2000/eap/index.cfm?docid=764>

downloaded 3 February 2001

³²² “Several measures have been identified which can reinforce the local capacity to minimize or prevent the use of children as soldiers. For example, local communities should be made more aware of national and international laws governing the age of recruitment. Non-governmental organizations, religious groups and civil society in general can play important roles in establishing ethical frameworks that characterize children’s participation in armed conflicts as unacceptable.”

United Nations, *Impact of Armed Conflict...*, *supra.*, para. 2, p. 3

³²³ Examples of all-children congresses include the first one held in 1991 tackling education, health, and protection and the second one in 1995 dealing with the issue of peace and children’s participation. A national children’s congress was held on 4-5 October 1995 with the participation of 465 children.

Source: National Project on Street Children, Pangalawang Pambansang Kongreso ng mga Batang Lansangan [Second national Congress of Street Children], 2-3 October 1995, Asian Social Institute Manila, Copyright 1995, pp. 1-53

³²⁴ “Peacemakers from various countries... shared the conviction that the processes of peace-building are best sustained and guaranteed by the active participation of organized citizens’ who not only can mobilize to create the conditions for peace, but also demand compliance with peace accords.

“Furthermore, they declared that ‘it is the right of the civilian population in countries at war to participate in the process of peacemaking, as wars are being fought in their name and it is they who are most affected.’ At the same time, they identified different sectors that can be empowered to play significant roles such as women, youth, and the survivors of war. Moreover, they recognized that there is no standard definition of peace processes but that they take place in different ways and follow different stages under a variety of political and sociocultural contexts.

“... Finally, in the context of today’s world, the participants highlighted the need to create a long-term agenda for social movements... to pave the way for a global war prevention and peace-building coalition.” Garcia, *supra.*, paras. 3-6, p. 3

³²⁵ Sen, *Development...*, *supra.*, paras. 3-4, p. 152, 153-159

³²⁶ “Liberating education may help in the process of overcoming discriminatory power when political agents are prepared to intervene and transform the political and economic structure of the state.” Freire, *Letters...*, *supra.*, first para., p. 178

³²⁷ Note for example this statement: “Needless to say, not one agency can address the needs of the child soldiers. Better coordination between the military, the police, the DSWD, and the NGOs is important to ensure... the child’s best interest.” Camacho, *et.al.*, last para., p. 8

³²⁸ “Of the world’s estimated 27 million refugees and 30 million displaced people, 80 per cent are women and children.”

United Nations, *Impact of Armed Conflict...*, *supra.*, para. 8, p. 3

³²⁹ Ahimsa stresses “nonviolence and the force of love in human relations.” DeLuca, *supra.*, para. 2, p. 17

³³⁰ “Others have learned that there is honour in austerity, that charity is no substitute for justice and that nothing can equal the people’s strength when their leaders have the courage to speak a single word to their would-be-masters: No.”

George, Susan, *How the Other Half Dies—The Real Reasons for World Hunger*, Penguin Books, 1976, p. 286, quoted by Constantino, Renato, *The Nationalist Alternative*, Foundation for Nationalist Studies, Quezon City, Philippines, Copyright 1979, para. 2, p. 80

³³¹ “Structural Adjustment Programmes (SAP) typify the redistribution of structural decision-making powers away from states and into global economic institutions, such as the World Bank and the International Monetary Fund (IMF).... Targeting primarily social programmes, SAPs typically demand dramatic cuts in government expenditure as a prerequisite for further loans. In this way, the Bank assumes responsibility for the economic coordination of the state, subject to strict conditionality criteria, and largely ignores economic and social rights. Thus SAPs deny human rights to food, education, work and social assistance and render such claims meaningless....”

Evans, Tony, *Introduction: Power, hegemony and the universalization of human rights*, *Human rights fifty years on: A reappraisal*, Manchester and New York: Manchester University Press, 1998, *Selected Materials, International and Regional Protection of Human Rights*, Master of Laws in Human Rights (2000-2001), Faculty of Law, University of Hong Kong, p. 29

³³² “Ironically, the sum of human suffering has been increased by the conditionalities and structural adjustments of the very institutions on which the world depends most heavily for the decline of poverty: the International Monetary Fund and the World Bank. In their efforts to cure the afflictions of their client countries, these multilateral financial institutions have exacerbated the sufferings of millions of people. The most troubling aspect of their imposed conditionalities and structural adjustments on countries seeking rescheduling of their debts and seeking new loans with which to pay the interest on these debts (or lately to reduce their debts) is the virtual neglect of issues of equity and fairness. The burdens are inappropriately distributed among the populations. In many countries, the cutting of expenditures for social services, the freezing of wages and salaries, the removal of price control on basic commodities, and the huge devaluations of currencies have exacted their heavy toll on the poor and vulnerable—women, children, peasants, laborers, landless workers, small fishermen, the unemployed. In the meantime, the ruling classes have seen to it that the government amenities—presidential, army and bureaucratic fringe benefits and privileges—are not touched.”

Espiritu, Augusto Caesar, The Political Economy of Global Debt and Underdevelopment, Institute of International Legal Studies—University of the Philippines Law Center, International Relations Pamphlet Series No. 5, Quezon City, Philippines, Copyright 1993, last para., pp. 8-9

³³³ “The discourse of the hungry is the act of eating the food.” Freire, *Letters...*, *supra.*, para. 2, p. 184

³³⁴ Freire, *Letters...*, *supra.*, paras. 3-6, p. 126

³³⁵ “The State shall assign the highest budgetary priority to education and ensure that teaching will attract and retain its rightful share of the best available talents through adequate remuneration and other means of job satisfaction and fulfillment.” Article XIV, Section 3.5, 1987 Philippine Constitution

³³⁶ “... debt servicing, because of the ubiquitous automatic appropriations clause for it, continued to consume a huge allocation in the national budget. To merely service interests on our external debt, the 2000 General Appropriations Act allocated some PhP109.314 billion.”

Philippine Human Rights Information Center (PhilRights), Human Rights Situation 2000, A Prelude to Estrada’s Curtain Call, February 2001, last sentence, first para. , p. 5

³³⁷ “The annual debt service payments of about 19 severely-indebted middle income countries have ranged typically between 20 percent to 40 percent of their total external receipts, and close to 50 percent among the 26 severely-indebted low income countries. Indeed, the outflow of capital from the Third World was much ahead of inflow through all the ‘lost’ decade of the 1980s, with \$50-\$60 billion each year flowing from them to the rich countries during the last years of the decade—where it should have been the other way round.”

Espiritu, The Political Economy... supra., para. 2, p. 7

³³⁸ The “indefinite recess” ordered by President Gloria Macapagal-Arroyo during the peace negotiations in Oslo, Norway, following the assassination of retired Colonel Rodolfo Aguinaldo by New People’s Army guerrillas shows the deficiency of the conceptual framework of the ongoing peace talks. Aguinaldo was executed by rebels for his widely documented human rights atrocities, including the alleged torture and murder of suspected political dissidents during martial law. Nothing could stop the NPA from settling old scores unless past human rights violations are addressed squarely and decisively, unless justice is rendered. In fact, it is the government’s failure and refusal to prosecute Aguinaldo, who had long been included in the communist hit list, which had partly led the NPA to carry out his execution.

Aguinaldo’s killing brought to the fore the failure of the government to confront the ghost of its past human rights abuses. Existing administrative and judicial mechanisms, on account of the lack of political will and the past leaders’ decision to simply forget the past and conveniently forge a new start, failed to remedy the grievances of rights abuse victims and their kin.

³³⁹ See Schlunck, Angelika, *Truth and Reconciliation Commissions*, 1998, 4(2) *ILSA Journal of International and Comparative Law, Selected Materials (ICRM), Master of Laws in Human Rights (2000-2001), Faculty of Law, University of Hong Kong*, pp. 71-76

³⁴⁰ See United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political), Revised Final Report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119, UN Doc*

E/CN.4/Sub.2/1997/20/rev.1, *Master of Laws in Human Rights (2000-2001)*, Faculty of Law, University of Hong Kong, pp. 29-52

Morris, Madeline, *Facilitating Accountability: The Potential Value of International Guidelines against Impunity*, 1998, 4(2) *ILSA Journal of International and Comparative Law*

<http://www.nsulaw.nova.edu/student/organizations/ILSAJournal/4-2/4-2%20TOC.htm>, *supra.*, pp. 53-56

³⁴¹ Of much significance among events leading to the imposition of martial law is the infamous Plaza Miranda bombing on 21 August 1971.

³⁴² Freire, Paulo, *Letters...*, *supra.*, para. 2, p. 4

³⁴³ See Albon, Mary, *Project on Justice in Times of Transition: Report of the Project's Inaugural Meeting*, pp. 42-54, Neil J. Kritz (ed), *Transitional Justice: How Emerging Democracies Reckon with Former Regimes: Volume 1—General Considerations*, Washington DC, United States Institute of Peace Press, 1995, *Selected Materials (ICRM)*, *Master of Laws in Human Rights (2000-2001)*, Faculty of Law, University of Hong Kong, pp. 22-28

³⁴⁴ “In postconflict societies, it is clear, as was expressed during the International Colloquium on Peacemaking, that healing and reconciliation among members of the different communities may be necessary. One cannot expect that, just because a peace accord has been forged, peace will prevail throughout the land. The wounds of war will have to heal and the bitterness of those who consider themselves the aggrieved parties will also have to be allowed to heal.” Garcia, *supra.*, first para., p. 14

See also *Conflict Prevention Web, Tool Category F: Judicial/Legal Measures—23. War Crimes Tribunals/Truth Commission*, www.caii-dc.com/ghai/toolbox23.htm, *Selected Materials (ICRM)*, *Master of Laws in Human Rights (2000-2001)*, Faculty of Law, University of Hong Kong, pp. 57-70

³⁴⁵ Zalaquett, Jose, *Confronting Human Rights Violations Committed by Former Governments: Principles Applicable and Political Constraints*, in *Transitional Justice: How Emerging Democracies Reckon With Former Regimes: Volume 1—General Considerations*, Washington DC, United States Institute of Peace Press, 1995, pp. 3-31, *Selected Materials (ICRM)*, *Master of Laws in Human Rights (2000-2001)*, Faculty of Law, University of Hong Kong, pp. 1-16

³⁴⁶ “The challenge for Governments and civil society is to channel the energy, ideas and experience of youth into contributing in positive ways to the creation of their new, post-conflict society.”

United Nations, *Impact of Armed Conflict on Children, Special Concerns*, para. 6, p. 2

³⁴⁷³⁴⁷ “The international community has a legitimate interest and responsibility in ameliorating the horrors of civil disputes.” Gardam, last para., p. 182