



Policy Forum

December 2009

A Roundtable Discussion on Civilian Protection in Peacekeeping¹

Introduction

Fr. Mercado, who led the proceedings for the entire day, gave a brief introduction by articulating the goals and objectives of the recently signed agreement (October 27, 2009) between the GRP and the MILF on Civilian Protection (See Annex).

The agreement reconfirms the parties' (GRP and the MILF) commitments to Human Rights and the International Humanitarian Law. The assumption of these obligations under the Convention on Human Rights and the International Humanitarian Law by the protagonists has elevated the peace negotiations into yet higher plane.

The discussions were preceded by presentations of formal papers, two in the morning and two in the afternoon. The day's efforts would be a concentrated conversation involving the military and the police, local and national government, the academe, and civil society, with the end in view of upholding the principles of civilian protection.

First Presentation: The protection of the civilian is the state's most important responsibility.

Dr. Francisco Magno presented the first of two papers for the morning session. Beginning with the question — Civilian protection: Why? He anchored his talk on the fundamental link of human security with human rights. "Civilian protection," he said, "refers to all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law, international humanitarian law, and refugee law." Asserting that "The fundamental objective of protection strategies is to reduce the risk and extent of harm to civilians," he proceeded to his next slide, which defines state responsibility: "The protection of civilians, whether understood primarily in physical or legal terms, remains first and foremost the duty of

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governments, a reflection of their sovereign authority over, and responsibility for, all those living within their territory.”

Dr. Magno further glossed this responsibility in situations of armed conflict, in which cases, international humanitarian law “imposes duties on all the parties to the conflict.” International human rights law (IHL), human rights law, and refugee law, is the global framework for protection. By setting limits on the methods and means of warfare, IHL endeavors to limit the effects of warfare on specific vulnerable groups. Human rights law, on the other hand, focuses on the individual and their general entitlements — not necessarily related to conflict. International law encompasses a number of treaties meant to prevent and punish specific violations of human rights in conflict, including genocide and torture. As well, refugee law protects those fleeing from the conflict zones.

After laying out the legal framework upon which civilian protection is anchored, Dr. Magno observed growing international concern over the impact of internal strife. Three forms of response to this concern can be enumerated: responsive action, remedial action, and environment-building. Responsive action halts the violence. Remedial action involves repatriation, restitution, and rehabilitation; and environment-building fosters an atmosphere of respect for human rights.

“In contemporary counter-insurgency theory and in the conduct of military operations in general, the protection of the civilian population is supposedly the cornerstone.”

Dr. Peter Bartu began the second paper with a slide that observed the accordance of dignity and right to life to non-combatants, the wounded and sick, and the prisoners of war, through more than a century of international jurisprudence. The paper provided a global view of the topic, although he remarked at the outset that he stood before his audience in humility, especially in that his experiences in other conflict zones, notably, Iraq, Palestine/Israel, and East Timor, “have not prepared me for Mindanao.” Qualifying that he does not represent the Australian government, Dr. Bartu proceeded to draw on his own practice in conflict resolution. Like Dr. Magno, he anchored the principle of civilian protection on human rights as enshrined in the Universal Declaration of Human Rights, the four Geneva Conventions, the additional Protocol II covering non-international armed conflict, and the Philippine Constitution. He emphasized “the fundamental compact” — the state’s responsibility to protect its citizens — however adding a note about the importance of non-state actors “who also have legal obligations.”

“In contemporary counter-insurgency theory and in the conduct of military operations in general,” Dr. Bartu stressed, “the protection of the civilian population is supposedly the cornerstone.” He qualified quickly that theory is far from practice. He briefly sketched major transgressions. For example, the Goldstone report “found that the Israeli Defense Force, which has been known for the defense of human rights, was found to have targeted civilians. . . 1.3 million people in Gaza, one of the densest populations in the world. . . an extraordinarily difficult environment in which to prosecute military operations.”

On the other hand, he said, “Working on Palestine for close to a decade... There is no military solution in those circumstances.” The youth bulge factors in, and “we are not closer to a political arrangement...” suggesting that such aspects may have application as insights into Mindanao, particularly the difficulties of prosecuting conventional solutions.

Dr. Bartu continued: in Lebanon in 2006, cluster munitions and artillery delivered anti personnel mines which took months to clean but took a lot of civilian casualties.” New tech drones being used in Afghanistan by the United States and NATO have “created a groundswell of opposition.” The collateral damage to non-combatants has produced a backlash. He mentioned that a debate is on-going within NATO and the US military establishment about the advantage of pursuing the war this way. The debate turns on whether or not such degree of collateral damage is acceptable.

“In order to save the village, we had to destroy it.”

Iraq, he says, is “very instructive” in this light, specifically with Abu Ghraib as a turning point in the thinking about the American Occupation. While Paul Bremer, the US administrator did not keep statistics on the number of civilians killed (“You had an army counting weapons apprehended, but nobody in the 200,000 strong force kept a count on civilian deaths during the 12 months”). Today the more civilian sensitive stance of General Petraeus marks a significant shift in thinking. Dr. Bartu shared that “It took an American NGO to point out the indiscriminate nature of the military force during the occupation;” and, working around the security sector, this group managed to secure an “acknowledgement that there is a problem... They reached the commanders,” hence, “they’ve come a long way.” In East Timor during the period of the Habibie presidency, the United Nations was allowed to conduct a referendum about separation. The legitimacy of this decision was questioned, while the Indonesian police, a group that did not have peace building capabilities, took the lead in East Timor. And the Vietnam War can be encapsulated in a quote circa 1978: “In order to save the village, we had to destroy it.”

These enormous lapses in international legal frameworks guaranteeing civilian protection bear mentioning, from the perspective of Dr. Bartu’s paper, as a global context within which to ask the question about the “leitmotif of the Mindanao conflict” — the refugees. “How will the IDPs return to their point of origin?” Dr. Bartu posed. “What can be done to prevent future displacement?” And a more fundamental challenge: “How to construct a sustainable dynamic to achieve enduring peace?”

Dr. Bartu observed that with interest on the part of the United Nations (although not the Security Council) at this point in time, the Mindanao conflict is becoming internationalized. “There are international NGOs working in Philippine sovereign space. This is a new trend, if you look at the last 40 years.” He added that now there are “more non-Philippine actors, but qualifies that “whether this is a permanent reality, we don’t know.” He expressed reservations (“not a criticism but an observation”) about where accountability resides.

“Where does the buck stop?” Drawing a possible parallel with securitization bonds, “the way debt was packaged and resold and had poor people having access to houses through complex financial designs,” all of which endlessly repackaged bonds ultimately collapsed — Dr. Bartu voices an uncertainty about the present dynamics of prosecuting peace in Mindanao.

An enumeration of status quo indicators brought his paper to a close. He noted that security had improved from 2006 – 2008; that extant joint structures provide a sound basis for progress; the recent agreement on the International Contact Group (ICG) and Civilian Protection (CP) is a good development and should become more robust with greater NGO participation. He ended the enumeration with a note for greater cooperation among the Office of the Office of the Presidential Adviser on the Peace Process (OPAPP), Armed Forces of the Philippines (AFP), Moro Islamic Liberation Front (MILF)/Moro National Liberation Front (MNLF), and civil society, marked by coordination and communication mechanisms.

He concluded his presentation by making three points. First, that the opportunity presented by the current situation must be seized. Second, that responsibilities and accountabilities must be clarified. And third, that the protagonists must think through and beyond the conflict with a view to a common vision of individual rights and responsibilities. Dr. Bartu ended: “From an external and even development perspective: the more the process is coherent and has integrity, the better in terms for progress. The development community has not been able to provide the appropriate level of assistance, until NOW.”

Fr. Mercado opened the discussion at this stage with “buzz session” that focused on two questions, to wit:

What is the No. 1 issue, problem, or concern, in the civilian protection discourse?
What is the most important element(s) of these issues that need to be addressed?

An open discussion ensued, with the following highlights:

Ms. Rasul chose to cite the failure of the MOA-AD signing. “A wrong has been done,” she emphasized, and added that from personal experience pertaining to a recent Sulu event, “where was the LGU?” She called for a look at a larger picture, speculating about the role of LGUs during crisis.

Col. Geslani raised the matter of: from whom does one protect the civilians? Rhetorically, he answered: from terrorists, citing Umbra Kato and Bravo as examples of individuals who have yet to be brought to courts of justice, where the “rights of criminals are protected.” He continued: “Those who have not surrendered to the law should be arrested. But they have a large following, so the military runs after them. The peace

process, however, prevents this. What then is the mechanism of justice? What will bring Kato and Bravo to court?”

Dr. Magno looked at the issues in terms of clarifying the rules. For him the issue is about providing control on both sides, particularly on controlling their personnel.

Undersecretary Carolina, noting that Secretary Abaya was in their discussion break-out group, said that: “There are going to be rules to be enforced by each side on how to protect civilians.” He then posed the question: “But how will you enforce those rules on those who attack places of worship, for example?”

“For the military, it is very hard to find ways to protect civilians, because which civilians are there to protect?”

LtGen. Ferrer observed “We cannot distinguish which is which. If we see somebody with a gun, a soldier will shoot. so we get civilian casualties. This complicates the situation of the IDPs, many of whom are MI relatives. If we give food, from the soldiers’ point of view, the international agencies seem to be supporting the Moro Islamic Liberation Front (MILF). But then we are accused of blocking medicine, food, etc. For the military, it is very hard to find ways to protect civilians, because which civilians are there to protect? When Umbra Kato entered North Cotabato, it was clear to us that he did enter, and so the civilians were dispersed. But when we entered Maguindanao, we were accused of attacking MILF camps. We cannot distinguish these groups when we go on the offensive. What mechanisms can we put in place?”

Atty. Sol Santos would like definitions and clarifications to be set forth for the terms “civilian” and “protection.” He elaborated: “Civilians are non-combatants, but there is still a need for definition at the conceptual level. Aside from the main combatant forces, there are other actors like paramilitary (i.e. private armies)...clan or family dynasties...” He then posed the question: “Is the definition all-encompassing or limited?” He furthermore noted “a toss-up between issues of displacement which are too big we do not have to elaborate too much.” Hence, he suggested that the discussion be focused on “combatant behavior, arms bearers...to internalize the corresponding rules for civilian behavior...”.

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At this juncture, the discussion found common ground on the need for effective mechanism(s) for the enforcement of justice, and for accountability for security.

Col. Geslani asserted that the primacy of peace process does not subvert the primacy of the Constitution.

Gen. Decano stressed the need for clear policies. He explained that if policies are not clearly defined, the capacity of each group to “toe the line” is compromised. “Many of the things we see concerning the board impact on the enforcement —mechanisms block

enforcement—relates to policy. Even disarmament.” And because “practically all of them are armed, we have never been able to do adequate enforcement.”

Mr. Masukat raised the matter of protectionism: AFP versus MILF. “Both sides seem to protect their own men,” he noted. “Self-protection. Kato is safeguarded. At the military side, *walang nangyari sa kaso* in courts of law [nothing happens to cases filed in court].” He added the issue of “compliance monitoring.” Mr. Masukat speculates that if “we have a third party, can this party undertake capture? Can we have universal policies? What happens if the rules are different for the MILF and the military?”

Ms. Algabre asked whether the actions of all parties could be integrated. There are present mechanisms that do not form one vision, and this is something that is still a challenge to all major parties. “There seems to be a very clear agreement at the level of the higher ups, but these are not communicated to those on the ground,” she said, and suggested that communications problems on the ground be looked into.

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Jun Caluyod explained that their group’s point about “No one in charge,” and “Lack of political will of LGUs” is not about people, but, rather, about institutions. He also raised the matter of the proliferation of small arms, stressing that internal displacement is “the environment under which we are operating.” For him, “small arms include the AK47, M16, M14.”

Ms. Rasul, who said that she was speaking for Western Mindanao at this point, shared a joke going around that Zamboanga has the most number of mayors, but they are elected because of the clan. However, if they want to do something, they do not really know how. “Local government is thought of as a satirical equation: “LGUs = MIA (missing in action),” she said.

Atty. Santos qualified that the idea card with “proliferation of small arms” written on it refers only to combatant behavior, direct interaction between soldier and rebel on one hand, and on the other, the civilian, which can be more fearsome.” He then asked: “How can those humanitarian rules be internalized? Through training? Sample punishments? By the one holding the gun?”

Given the hosts of issues that surfaced during the discussion, the final break-out group chose to prioritize attention to ambiguities, i.e., lack of clarity.

Major Hontiveros described confusion on the ground. “A rebel can lay down his arms and appear to be a civilian. This entitles him to a different treatment. It is our job to protect everyone, be they civilian, rebel, terrorist, etc. Each one must be given equal right to due process.” He then asked “Is protection just about physical harm, or are we talking

about procedures during operations? Or are we talking about protection from harm from terrorists, human rights when violated, the protection of the judicial system, when they are brought to the court?"

Mr. Hameed joined the conversation by citing the whole data structure on the ground. He then asked "Are they members of the MILF?" and noted that "the communities side with them. People side with their own datus and in many cases the civilians don't have a choice."

Mr. Caluyod asked, "How does one operationalize those policies on the ground?"

A number of participants agreed that the context be limited to the GRP-MILF Agreement. They emphasized that both parties should see to it that their actions would not result in harming civilians. They found this to be a more reasonable approach "rather than talk about the wide range of civilian protection elements."

At which point, Major Hontiveros once more asked: "sino ang civilian?" (Who is the civilian)?

Dr Bartu responded to the thread of discussion by bringing up the matter of "the accountability question across the different groups. Historically over the last 30 years," he noted, "and in 5 years with lost commands, etc., it is with new organizations that one negotiates a peace agreement with — but which agreement may not be able to affect the situation because of a lost command." He then raised the question: "How do you ensure the integrity of a process so that the opposing sides achieve coherence, because coherence is the basis of civilian protection?" He added: "Splinter, reform, and the center can also splinter, etc. How do you ensure coherence at the center," and observed that one of the presidentiables said he would launch an all out war.

Dr. Bartu continued on the question of sincerity, and the primacy of the peace process, taking up the Palestinian experience. "In Palestine," he said, "the issue is how can one fulfill the obligation without derailing the peace process? Many countries struggle with this. The reality is we have to deal with Hamas (and not Fatah which is getting weaker) , but Hamas does not ensure the continued existence of Israel. However, Sharon said he will reserve the right for his security forces to take out any suicide bomber. The question is: How do we know it is a suicide bomber?"

Dr. Magno brought the discussion back to governance. "The demand of the moment is to determine the governance, the compliance with the monitoring of the process. We cannot commit to process without the capacity." As for the clear definition of terms, with the academe defining the problem and setting the terms of reference, one must not

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forget that this entire process takes place in a social environment. In any action, is there an environment conducive to peace, including enough resources, even in the budget process. “Is there a commitment to provide the resource for civilian protection?” he asked.

Newly appointed Secretary of OPAPP, Annabel Abaya reiterated Dr. Magno’s question, “Protection: From whose perspective? Who are the civilians, and how do they want to be protected?” She asked further, “Does protection mean having homes built, for example?”

Secretary Abaya also focused on another aspect of the definition of civilian protection which is accountability. She asked, “How is it possible to make parties responsible for their actions?”

The Secretary described herself as a “big fan of social engagement,” explaining that “we need to provide a space wherein this remains sacred, away from the peering eyes of the media.” She emphasized her belief that “our negotiators are all very serious, very well meaning, but if media expose them, they become defensive. Where is that psychological space where we will talk to each other?”

“The toll of dead and wounded among innocent civilians has risen to levels that can be described, without exaggeration, as appalling,”

The third presenter, Dr. Rommel Banlaoi focused on policy issues and operational challenges concerning the protocol for civilian protection during counter-insurgency and counter-terrorism operations. Speaking from a political science and policy development perspective, Dr. Banlaoi sounded a call for giving greater importance to empirical research in the process of combining theory and experience.

Under a section of his paper titled “The Ugly Truth,” he first of all notes that 60 million people have been killed in the wars of the 20th century; and that over 80% of the casualties have been civilians, mainly women and children. Quoting former United Nations Secretary-General Kofi Annan who said that the toll of dead and wounded among innocent civilians has “risen to levels that can be described, without exaggeration, as appalling,” Dr. Banlaoi proceeded to enumerate the relevant statistics in the Philippines. Highlights are: 500 mosques burned; at least 400 civilians killed in the counter-terrorism campaigns of 2001 – 2009 (that is, at least one civilian per week, based on the Commission on Human Rights); 91% of Mindanao provinces affected; 10 billion pesos as cost of the conflict since 1975.

The paper moved on to distinguish protections provided for by International Humanitarian Law (IHL) and by Human Rights Law (HRL) which, while having similar rules, developed separately and are contained in different treaties. IHL protects those who are not or no longer, taking part in fight; notably, medical or religious personnel, non-combatants, the wounded, shipwrecked and sick combatants, and prisoners of war. IHL is concerned with limiting the effects of armed conflict on designated categories of protected persons and property, chiefly through the setting of limits on the methods and means of warfare. Dr. Banlaoi noted that “IHL may be suspended in time of conflict” and that the protocol has not been ratified by the Philippines.

Under IHL, indiscriminate attacks are prohibited (Protocol I), as is the use of civilians as shields during attacks, the starving of populations, and the attack, destruction, removal or

rendering useless of matters of survival such as food, agricultural areas, crops, livestock, drinking water, and so forth. IHL (Protocol II) extends the protection of civilian populations to non-international conflicts, and declares that neither the civilian populations, nor individual civilians, may be the object of attack. The displacement of civilian populations may only be ordered if its safety or imperative military reasons require it; and only after all possible measures have been taken to ensure it will be received under its satisfactory conditions.

Dr. Banlaoi made a strong point about Philippine laws as very human rights sensitive. The 1987 Philippine Constitution provides that the Philippines adopt generally accepted principles of international law in the law of the land. The relevant sections are:

Article II, Section 3: The Armed Forces of the Philippines is the protector of the people and the state...

Section 4: The prime duty of the Government is to serve and protect the people.

Moreover, the 1977 Additional Protocol II on Protection of Victims of Non-international Armed Conflicts was ratified by the Philippine government on December 11, 1986; as, also, the Human Security Act, promoting human rights during counter-terrorism, was effected in 2007. Dr. Banlaoi then enumerated a series of dicta embodied in military and police policies, operational plans, and rules of engagement, which enshrine the principle of civilian protection — documents which are classified as secret. He began the enumeration by stating that the Armed Forces of the Philippines and the Philippine National Police, as a matter of policy, incorporates IHL and human rights in its internal security operation (ISO). It was at this point that Dr. Banlaoi expressed the view that these documents should not remain secret, in light of their outstandingly positive content.

The paper cited actual cases of reported abuses, including that of the towns of Dapiawan, Datu Saudi, and Ampatuan (where there were accusations of looting, damage to homes and property, and vandalization of mosques — for which CAFGUs and CVOs have been blamed); and the situations of IDPs in at least 10 evacuation centers (noting the shortage of food and drinking water, dirty environment, inadequate medical and psychological care, and lack of educational possibilities for children). He observed that Muslim detainees accused of crimes related to terrorism are not all thus involved. In response to these problems, Dr. Banlaoi proceeded to his concluding statements as follows. He described the need for the state and civil society to work together as urgent; and then proceeded to describe the imperative to promote effective, responsive, and accountable governance of the security sector. To him, the key issues/challenges include: the fact that MILF camps are also MILF communities; that many civilians are armed due to intra clan conflicts; IDP centers are scattered; LGUs lack involvement; and relief operations need better coordination. He ended with a call to “overcome the culture of protection and the culture of impunity” and to hold people to account for wrong-doing. “The best civilian protection,” he observed, “is conflict prevention!”

“The best civilian protection in conflict prevention.”

LtGen. Ferrer gave the final paper, choosing to focus on Central Mindanao and the conflict with the MILF (not the NPA). He reiterated the “defensive positions in camps with families” and the many encounters with armed civilians. Mentioning “pintakasi” incidents where the military was ganged up on, he continued to specific examples, notably, of entering a small community where the defensive positions are in the mosque. Because the AFP does not have precision weapons, any off target move would hit the mosque or a civilian’s

house. LtGen. Ferrer expressed the difficulty inherent in such situations: “We do not intentionally target houses,” but sometimes the situation proves extremely challenging. The AFP ends up being accused of burnings. At the IDP centers, “both make-shift and established,” he noted that “Our troops are confused. Some combatants get close to these centers.” Moreover, there are times when the timing of relief conflicts with AFP operations, and thus “we are accused of creating food blockades.” This, he said, “is the real situation on the ground.”

“The presence of international peacekeeping force does not guarantee security.”

LtGen. Ferrer described the pursuit of Umbra Kato from the Datu Piang area, where “his presence will threaten our troops.” But while a suspension of operations holds, the AFP still has “a right to go after Kato.” He then asked: “Who is going to guarantee the safety of people going back home?” He noted that the Ad Hoc Joint Action Group (AHJAG), an anti-criminal group, has, in some cases, been helpful; particularly concerning kidnapping, where criminals sought refuge in MILF areas. “But now we do not know if it is still functioning.” He mentioned the Joint Monitoring Action Team (JMAT), an innovation on the part of the tactical units, wherein MILF representations, the International Monitoring Team (IMT), Bantay Ceasefire, all talk to prevent fighting between non-state combatants and the MILF. As regards an agreement of civilian protection, LtGen. Ferrer observed that “there are no implementing rules and regulations (IRR) yet, “so it is still just a document.” He added “We need specifics.”

In using Disarmament, Demobilization, Reintegration (DDR) as a framework, “we shift to dialogue,” he said, adding that “If there will be a formal ceasefire, we need a shared security arrangement among all armed parties.” But “local Muslims do not want to be disarmed.” The prospect is for a negotiated peace “when the other parties like CAFGU’s and Ilagas are not disarmed. Maybe instead of disarmament we just collect the big guns. Maybe they should keep some of their guns for intra family and intra clan conflict.” LtGen. Ferrer recalled that during the writing of the MOA-AD document, the question was “what type of peace-keeping forces?” considering that policemen are identified with certain politicians. Drawing on his experience in East Timor, LtGen. Ferrer noted that the “presence of international peace keeping force does not guarantee security.” He then sounded a call for “people to be educated on Security Sector Reform.” The LGUs should exercise control. Finally, he said, “Many people think security is only about the Armed Forces. NO, it includes a lot of agencies, most especially local government.”

At this juncture, each participant was asked to pose this question to the person seated next to him/her:

Will this conflict be resolved in our lifetime?

The responses were to do with an interim civilian protection mechanism and the hope to disarm all. Granted a reformed security sector, there remains the question: Who is going to protect MILF communities? The sentiment was: Not the AFP—especially after the promulgation of a peace agreement.

The following ideas were brought forth in the ensuing discussion.

Mr. Hameed said that “I live in Mindanao. What kind of rule can be accorded a third party? We have not talked about pro-active, only corrective, positions.” He continued: “Interventions should be pro-active.” Citing the recent events in Midsayap, where a deadline and objectives were established, “They asked the group of Umbra Kato to move by moving the troops backward in a guided approach. Kato was asked to go back, but he could have been guided.” Mr. Hameed concluded that “The trust level has been shaken between Christian and Muslims, and the problem now is how to build again. At the same time, you need to bring in the elements of non-partisanship, whenever crises happen.”

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Col. Geslani reiterated the tendency of rebels to hide themselves among civilians. The protagonists burn their own houses, he said, firstly to impede the military and secondly to punish the village for possible informers. The propaganda value is great.

Atty. Santos spoke at this point of “unexploded munitions, like cluster munitions in Lebanon,” and asked “Is it safe to go back?” There is need for mine risk education. Information and guidelines have to be offered affected communities. “They do not have the technical capability to defuse. The danger will go beyond 2010. The clearing, that’s probably where technical resources will be needed, but also cooperation between the two armed forces,” he said.

Mr. Masukat shared an experience with humanitarian assistance, concerning Task Force IPP, the DSWD, and the NDCC, RDCC, with regard to coordination issues. “We have our own ARMM disaster relief: regional government coordinating with 5 OCDs.” But, he asked, “Are we really autonomous? It seems that the National Government does not trust the ARMM DSWD. We have to submit our Quick Response Fund and the ceiling is from national government.” And with regard to coordination in general, he lamented that “If there are no issues, we are not consulted.” He expressed the opinion that “ARMM is improving in governance, in terms of capacity building;” noting that “before the MOA-AD, LGUs were not consulted. “

Ms. Rasul mentioned that she was part of ARMM as a DTI officer sometime in the past. She observed that “In almost all forums there is that impression against Muslims that is hard to hurdle.” But, she added: “We just have to be consistent, and we will overcome.” Her take on civilian protection looks seriously at prevention. “Bigger work,”

she said, “concerning transparency. Advocacy work will be enormous.” Ms. Rasul also brought in the point that “as Muslims we look to our religious leaders. We cannot over-emphasize this. This will eventually spell how we will live in peace.”

She furthermore noted the need for long-term monitoring of the negotiated peace agreement, in which “OPAPP should be heavily involved.”

“if we agree to a peace and development plan, we need to see what the deliverables are.”

For his part, ASEC Montesa brought up an analogy thus: “If we were running a business, it is almost like a business delivering such as security services from old to new government, what, then, is our end goal in this Bangsamoro Challenge?” He added that in Western Central Mindanao, “if we agree to a peace and development plan, we need to see what the deliverables are. Once we have clarified, and then let us look at our external environment for opportunities and limitations.” He observed that “the Army of 1987 had a ‘business model’ same as today. However, we do not know the definition of the enemy; nor those in government.” He stressed that we need to define a new business model. Once this model is created based on scenarios, there is much to be gained. Clarity might be a gain. “Assuming we started this war in the 1970s, what have we achieved, what have we failed to attain?” he asked.

ASEC Montesa brought the discussion to the review of the GRP-MILF peace process and articulated the questions he thought need asking: “What is the task we set ourselves to solve? Or is GRP a success or a failure?” He said he “was struck that the MNLF should learn from the MILF,” and saw the need for a hindsight view vis a vis from a failure. “The MILF learned better negotiation skills. They are learning but the government is also learning, and this includes Security Sector Reform.” He noted, as well, that many military careers were made in Maguindanao, where the career officers earned their spurs, many of whom became Chief of Staff. This is a kind of incentive system.” He commented that “Fr. Jun would think different if he is in the military.” ASEC Montesa then concluded his remarks by saying “Solve the conflict and peace will come. We really need to rethink our mandates, what we really want to do.”

“Solve the conflict and peace will come.”

Captain Suarez responded by saying that “Perhaps we should also ask how to make the violent armed groups respect and value human life,” particularly in the light of the practice of using civilians “to satisfy their own ends.” He added: “It is not a one way thing were we try to reform government only.”

Col. Geslani returned to the matter of mines by saying that the “threat from unexploded should not be alarming,” and that the “Armed Forces has no land mines in its inventory,” recalling however that “When I was Task Force Commander in General Santos, there were indeed World War II unexploded bombs.” He mentioned that they use improvised explosive devices (IEDs) to make their bombs.

Dr. Banlaoi reiterated the need for science, “a thorough 3 levels of analysis.” He said: “All of us have a context where we are coming from. We have levels of analyzing problems (e.g. the military has a different context). For us to really exhaust all possible means requires a continuing engagement. We need to overcome stereotypes.” He added

that the “LGUs are frontlines but they do not want to talk about civilian protection because they think this is the job of the military. In my interviews with rebels (including Bicutan), where there is relative deprivation, the people from Sulu said they are willing to live and die poor, but they do not accept those becoming rich at their expense.” A practical suggestion is therefore in order, to conduct activities on civilian protection in relation to the GRP-MILF peace talks. “Once there is raised awareness, then IRR comes up. Because even if we have an agreement, what is the assurance that this will be implemented on the ground? We have to educate those who are working on the ground.” Noting that the lawless have no respect for rules, there exists the idea that violence should be used for legitimate purposes; that there is a right to armed resistance. We have to prevent this. Expect me to shout in the streets. Don’t prevent me from going to the mountains.”

“The LGUs are frontlines but they do not want to talk about civilian protection because they think this is the job of the military.”

Lt. General Ferrer offered that “on the part of the military in my area, we have our own initiatives. In fact we have tried conflict prevention measures by educating our commanders on peace building, because we know that while we may not end the conflict, but we don’t have to endanger the peace process.” He expressed the view that “security sector reform, changing paradigms, are slowly creeping into the minds, particularly concerning civilian protection and peace building.” He maintained that “Managing conflict is our core competence. Our capacity to use force should be greater than our actual use of force.”

Lt. General Ferrer asserted that a Cold War paradigm no longer holds — the idea that success is measured in body counts. In contrast, he said “that in an internal conflict, you kill more, you have more orphans. No,” he said, “We don’t emphasize body count. We emphasize: How much development has come into your area? Are we creating a secure environment, leading to investments? The common idea is to destroy the enemy. Victory means a Philippine scenario where ours will be a mediated peace. We only apply force commensurate to the level of armed conflict. The concept of peace is incorporated in the regular run of activities.”

The buzz session that ensued focused on the perceived gaps in the civilian protection discourse.

The question: With the policies in place, what gaps are still to be found/identified?

The following are the gaps identified:

1. Partisanship in local elections which produces many complications.
2. The coddling of rogue MILF commanders which “has been hanging over our heads for a long time.

3. The lack of accountability, the sense of impunity which undermines civilian protection.
4. Wrong understanding among the LGUs and the constituents of the peace process (e.g. during the apparently-imminent MOA-AD signing, there were those in ARMM who already bought uniforms for government service, thinking they would automatically take over posts)
5. How to bring discussions down to the ground
6. Inadequate LGU capability
7. Lack of commitment of combatants to civilian protection: need for greater detail on agreements on international contact groups (e.g., HRL is too general. “We need contract to-do.”)
8. The lack of convergence in local government which prevents agencies from doing much more or maximizing their achievements.
9. Antagonism and distrust continue that to exist, a burden of history. There is a big trust deficit.
10. The uneven commitment of local government officials, who merely pay lip service. A positive example is the Iranun people working with local government officials and creating peaceful areas in Buldon, Parang, and Barira. Distrust was removed.
11. The need for reinforcing the role of women
12. “Too much politics”
13. Need for open and effective coordination and communication channels are needed.
14. Lack of support for independent media on the ground.
15. Need for monitoring. The absence of functioning local monitoring teams for civilian protection bears noting.
16. Presence of tension and misunderstanding between commanders and civil society. For example, in cases regarding house burning: from the military perspective, it is legal harassment. From the NGO perspective, this is civilian protection. This gap must be bridged
17. Lack of sincere competence building action on the part of the rebels
18. Lack of active involvement of major stakeholders
19. The deficiency of the justice system does not contribute to creating the necessary environment for civilian protection because witnesses are afraid.

Having identified the gaps, the group came up with the following possible courses of action:

1. Submit rogue MILF to the legal process.
2. Hold summits for all actors.
3. Conduct purposive dialogue, to sort out misperceptions.

On the lack of convergence, too much politics, and lack of active participation of major stakeholders

1. Activate peace and order councils.
2. Implement a “performance score card” (to be done by the Civil Service Commission) in order to systematize the measurement of accountability on the part of local leaders. In this connection, awards and other incentives may be considered (and indeed some already exist).

On guidelines for the protection of civilians and the lack of information

1. Conduct trainings on peacebuilding and conflict management for all stakeholders.
2. Customize materials needed in advocacy work.
3. Make the LGUs accountable.

General Ferrer asserted that peace building and conflict management are related, and that, at the level of groundwork, “we are doing a lot of seminars to educate junior senior and detachment commanders, on the whole gamut of peace building that is conducive to development. While we are doing this groundwork, we are also engaging Undersecretary Carolina at a policy level. This is not only for the AFP, and should include other combatants, like the MILF.”

He added that “We did a dialogue with the MILF: their political, non-military staff. We don’t want to harm your civilians, we told them, and we need to distinguish (civilians from combatants). You might as well put your guns outside your communities, we said.” In addition, General Ferrer brought up the matter of a lack of a regional security force, and the lack of clarity in the DDR process. The desire for integration into the AFP but not to society in general, remains a problem.

Undersecretary Carolina asserted that the legal framework already exists for civil defense that abides, first of all, on the principle of community-based ownership; and secondly, on local government capacity building and autonomy (for example, mayors should be able to declare their own calamities).

On the matter of impunity

1. Atty. Santos reiterated the need for a breakthrough involving all sides concerned. “We are very clear about the legal and judicial system, but on the MILF side, this is not so clear. This is a grey area as far as non-state actors are concerned. But such documents as the Mayuga Report also must have a presence.”
2. Put in place positive sanctions so that everyone keeps to the norms. Studies are needed to address questions like: what makes combatants adhere to certain norms? What precisely could this be? Is this effective training? Reward system? A factor in promotions?
3. Review the LMT set-up, if these are really feasible specially at the municipal level. There is also so many mechanisms, structures, layers, bodies - there is a mechanism fatigue – that should be studied and reviewed well.
4. Identify the entrepreneurs of violence.

On effective monitoring and coordination

1. Reform the Police.

Gen. Decano brought up the thrust of the PNP integrated transformation program, and said “We are successful in relation to re community policing: the Barangay Peacekeeping Teams are effective in integrating all the stakeholders in the communities.

2. Set up an early warning system on the ground.

Mr. Hameed shared that they (Nonviolent Peaceforce) “try to train a group of people in each barangay and give them indicators, and assess. We share the information with officials. If OPAPP is channelized, if we can study the nature of the violence, one can give policy recommendations.”

3. Provide proper training for media.

“Media training is lacking,” observed Mr. Hameed, and while there are radio channels owned by the community, there are no electronic based channels and no independent news agency.

Two major issues: Accountability of two security providers and accountability of LGU

Gen. Ferrer believes that “we are talking about many discussions, like USEC Carolina’s ideas about local governance as the focal agency in many areas - even in NPA areas. But there are local governments that are not serious about their jobs, as in Basilan in relation to the Abu Sanyaf, who are goons fighting with the military.

Undersecretary Carolina averred that civil protection is part of civil defense. “If you cover the source of suffering...today, even the funding is dedicated to disasters caused by natural stuff. But regardless of the cause, the effects are the same. IDPs happen because of violence, but they suffer the same consequences as the displaced people. But the calamity fund and the whole set up is only for victims of natural calamities. If you look at the framework, there is a disaster coordinating council at all levels, with protocols. There is a shift in paradigm to pre-emptive evacuation. If we can do that for natural disasters, we can do it for the displaced people from conflict.” In this scenario, the regional police director heads a secretariat. And there is a local civil defense person. The local government leader becomes the incident leader. The protection action is implemented by the police and local government leader. The Armed Forces should be called only if local government cannot cope.

The necessary advocacy: if we can channel the stakeholders’ attention —government and all the others — and we give the same concern for would be man-made disasters, and apply the same effort to civil defense, there should be good changes.

Participants:

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4. Atif Hameed, Project Director, Nonviolent Peaceforce Project
5. SR Caluyod, Nonviolent Peaceforce Project
6. Ramil Masukat, Technical Management Services Director, Autonomous Region of Muslim Mindanao
7. Atty. Soliman Santos, Legislative Consultant, Legal Scholar
8. Captain Jose Renan Soares, Director, Naval Modernization Office, Headquarters Philippine Navy
9. Undersecretary Ernesto Carolina, Department of National Defense
10. Col Medardo Geslani, Commanding Officer, 601st Brigade Armed Forces of the Philippines
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Annex : The GRP-MILF Agreement on Civilian Protection

**IN THE NAME OF GOD
THE BENEFICENT, THE MERCIFUL**

**AGREEMENT ON THE CIVILIAN PROTECTION COMPONENT OF
THE INTERNATIONAL MONITORING TEAM (IMT)**

The Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front (MILF) (hereafter referred to as the "Parties") hereby agreed as follows:

**Article 1
Basic Undertakings**

The Parties reconfirm their obligations under humanitarian law and human rights law to take constant care to protect the civilian population and civilian properties against the dangers arising in armed conflict situations. In this context, the Parties commit themselves to:

a) Refrain from intentionally targeting or attacking non-combatants, prevent suffering of the civilian population and avoid acts that would cause collateral damage to civilians;

b) Refrain from targeting or intentionally attacking civilian properties or facilities such as schools, hospitals, religious premises, health and food distribution centers, or relief operations, or objects or facilities indispensable to the survival of the civilian population and of a civilian nature;

c) Take all necessary actions to facilitate the provision of relief supplies to affected communities;

d) Take all precautions feasible to avoid incidental loss of civilian life, injury to civilians, and danger to civilian objects;

e) Ensure that all protective and relief actions shall be undertaken in a purely nondiscriminatory basis covering all affected communities.

To effect the above objectives, the Parties shall issue or re-issue orders to their respective military units or security forces (including paramilitaries, associated militias, and police units) to conduct their operations consistent with their obligations and commitments described herein.

Article 2
Civilian Protection Component

The Parties hereby agree to expand the mandate of the IMT to include civilian protection. The IMT shall monitor, verify and report non-compliance by the Parties to their basic undertaking to protect civilians and civilian communities.

Should the IMT cease to operate, the civilian protection component shall remain in place and continue to perform such functions.

The Parties shall designate humanitarian organizations and non-governmental organizations, both international and national, with proven track record for impartiality, neutrality and independence, to carry out the civilian protection functions.

Article 3
Implementing Terms of Reference

This Agreement on civilian protection component shall form part of the Terms of Reference of the IMT to be deliberated and agreed by the Parties upon the formal resumption of the GRP-MILF peace talks.

Done at Kuala Lumpur, Malaysia, this 27th day of October 2009.

FOR THE GRP:


RAFAEL E. SEGUIS
GRP Panel Chairman

FOR THE MILF:


MOHAGHER IQBAL
MILF Panel Chairman

SIGNED IN THE PRESENCE OF:


DATUK OTHMAN BIN ABDUL RAZAK
Malaysian Government Facilitator

Institute for Autonomy and Governance



The Institute for Autonomy and Governance (IAG) is an independent and non-partisan think tank founded in 2001 to generate ideas on making autonomy an effective vehicle for peace and development in the Southern Philippines.

The IAG views autonomy as a broad and evolving concept that encompasses any political structure that is less than an independent state. It sees the promotion of autonomy in the southern Philippines as strategic. Whatever is in store

for the country's Muslim minority in the future, whether a federal, autonomous or independent state, institutional capacities for political and economic governance must be developed now to ensure that evolving structures can effectively address the root causes of armed conflicts.

Since 2001, IAG has conducted research, forums, roundtable discussions and conferences on the ARMM. It has published policy papers on political, economic and security issues that defined the much needed measures to be undertaken for meaningful autonomy in the region. IAG has been engaging the ARMM Regional Legislative Assembly in capacity-building, focusing on legislative technology and processes and policy formulation and legislation. It has provided technical assistance in the crafting priority laws in the region and published two books on the ARMM: *The ARMM Organic Law Annotated* and *Beyond Autonomy: Challenge in Southern Philippines*.

The IAG is an institutional partner of the Konrad-Adenauer-Stiftung in the Philippines.

The Philippine Council for Islam and Democracy (PCID), Technical Assistance for the Development of the Rural and Urban Poor (TACDRUP) and Kusog Mindanao are IAG's partners in the advocacy and lobby work for peace and Development of Mindanao.

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