

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.

THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, including the executive department and its agencies, hereinafter referred to as the GRP

AND

THE NATIONAL DEMOCRATIC FRONT OF THE PHILIPPINES, including the Communist Party of the Philippines (CPP) and the New People's Army (NPA), hereinafter referred to as the NDFP

Hereinafter referred to as "**the Parties**",

PREAMBLE

RECOGNIZING that respect for human rights and international humanitarian law is of crucial importance and urgent necessity in laying the ground for a just and lasting peace,

CONSIDERING that a comprehensive agreement on respect for human rights and international humanitarian law should take into account the current human rights situation in the Philippines and the historical experience of the Filipino people.

AFFIRMING that the principles of human rights and the principles of international humanitarian law are universally applicable,

ACKNOWLEDGING that the prolonged armed conflict in the Philippines necessitates the application of the principles of human rights and the principles of international humanitarian law,

REAFFIRMING their continuing commitment to the aforesaid principles and their application,

REALIZING the necessity and significance of assuming separate duties and responsibilities for upholding, protecting and promoting the principles of human rights and the principles of international humanitarian law,

UPHOLDING and complying with the mutually acceptable principles as well as the common goals and objectives in The Hague Joint Declaration of September 1, 1992, the Breukelen Joint Statement of June 14, 1994 and pertinent joint agreements hitherto signed, and

FULLY AWARE of the need for effective mechanisms and measures for upholding, protecting and promoting the principles of human rights and the principles of international humanitarian law in a comprehensive agreement,

SOLEMNLY ENTER without reservation into this Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law.

PART I

DECLARATION OF PRINCIPLES

Article 1

The Parties are governed by the framework of holding peace negotiations under mutually acceptable principles of national sovereignty, democracy and social justice and under no precondition that negates the character and purpose of peace negotiations, as stipulated in The Hague Joint Declaration (Paragraph 4) and reaffirmed in the Breukelen Joint Statement (No. 7 of II) and subsequent agreements.

Article 2

The Parties uphold the principles of mutuality and reciprocity in the conduct of the peace negotiations in accordance with The Hague Joint Declaration. The Parties likewise affirm the need to assume separate duties and responsibilities in accordance with the letter and intent of this Agreement.

Article 3

The Parties realize the need for a comprehensive accord on human rights and international humanitarian law based on realities involving violations of human rights and the principles of international humanitarian law.

Article 4

The Parties recognize that fundamental individual and collective freedoms and human rights in the political, social, economic and cultural spheres can only be realized and flourish under conditions of national and social freedoms of the people.

Article 5

The Parties affirm the need to promote, expand and guarantee the people's democratic rights and freedoms, especially of the toiling masses of workers and peasants.

Article 6

The Parties are aware that the prolonged armed conflict in the Philippines necessitates the application of the principles of human rights and the principles of international humanitarian law and the faithful compliance therewith by both Parties.

Article 7

The Parties hereby forge this Agreement in order to affirm their constant and continuing mutual commitment to respect human rights and the principles of international humanitarian law and hereby recognize either Party's acts of good intention to be bound by and to comply with the principles of international humanitarian law.

PART II

BASES, SCOPE AND APPLICABILITY

Article 1

This Agreement is meant to meet the needs arising from the concrete conditions of the Filipino people concerning violations of human rights and the principles of international humanitarian law, and to find principled ways and means of rendering justice to all the victims of such violations.

Article 2

The objectives of this Agreement are: (a) to guarantee the protection of human rights to all Filipinos under all circumstances, especially the workers, peasants and other poor people; (b) to affirm and apply the principles of international humanitarian law in order to protect the civilian population and individual civilians, as well as persons who do not take direct part or who have ceased to take part in the armed hostilities, including persons deprived of their liberty for reasons related to the armed conflict; (c) to establish effective mechanisms and measures for realizing, monitoring, verifying and ensuring compliance with the provisions of this Agreement; and, (d) to pave the way for comprehensive agreements on economic, social and political reforms that will ensure the attainment of a just and lasting peace.

Article 3

The Parties shall uphold, protect and promote the full scope of human rights, including civil, political, economic, social and cultural rights. In complying with such obligation due consideration shall be accorded to the respective political principles and circumstances of the Parties.

Article 4

It is understood that the universally applicable principles and standards of human rights and of international humanitarian law contemplated in this Agreement include those embodied in the instruments signed by the Philippines and deemed to be mutually applicable to and acceptable by both Parties.

Article 5

This Agreement shall be applicable in all cases involving violations of human rights and the principles of international humanitarian law committed against persons, families and groups affiliated with either Party and all civilians and persons not directly taking part in the hostilities, including persons deprived of their liberty for reasons related to the armed conflict. It shall likewise be applicable to all persons affected by the armed conflict, without distinction of any kind based on sex, race, language, religion or conviction, political or other opinion, national, ethnic or social origin, age, economic position, property, marital status, birth or any other similar condition or status.

PART III

RESPECT FOR HUMAN RIGHTS

Article 1

In the exercise of their inherent rights, the Parties shall adhere to and be bound by the principles and standards embodied in international instruments on human rights.

Article 2

This Agreement seeks to confront, remedy and prevent the most serious human rights violations in terms of civil and political rights, as well as to uphold, protect and promote the full scope of human rights and fundamental freedoms, including:

1. The right to self-determination of the Filipino nation by virtue of which the people should fully and freely determine their political status, pursue their economic, social and cultural development, and dispose of their natural wealth and resources for their own welfare and benefit towards genuine national independence, democracy, social justice and development.
2. The inherent and inalienable right of the people to establish a just, democratic and peaceful society, to adopt effective safeguards against, and to oppose oppression and tyranny similar to that of the past dictatorial regime.
3. The right of the victims and their families to seek justice for violations of human rights, including adequate compensation or indemnification, restitution and rehabilitation, and effective sanctions and guarantees against repetition and impunity.
4. The right to life, especially against summary executions (salvagings), involuntary disappearances, massacres and indiscriminate bombardments of communities, and the right not to be subjected to campaigns of incitement to violence against one's person.
5. The right to liberty, particularly against unwarranted and unjustified arrest and detention and to effectively avail of the privilege of the writ of habeas corpus.
6. The individual and collective right of the people and of communities to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and to effective safeguards of these rights against any illegal operations by GRP agencies.
7. The right not to be subjected to physical or mental torture, solitary confinement, rape and sexual abuse, and other inhuman, cruel or degrading treatment, detention and punishment.
8. The right not to be held in involuntary servitude or to perform forced or compulsory labor.
9. The right to substantive and procedural due process, to be presumed innocent until proven guilty, and against self-incrimination.
10. The right to equal protection of the law and against any form of discrimination on the basis of race, ethnicity, gender, belief, age, physical condition or civil status and against any incitement to such discrimination.
11. The right to freedom of thought and expression, freedom of conscience, political and religious beliefs and practices and the right not to be punished or held accountable in the exercise of these rights.
12. The right to free speech, press, association and assembly, and to seek redress of grievances.
13. The right to privacy of communication and correspondence, especially against intercepting, pilfering and opening of mail matters and conducting illegal surveillance and information gathering through electronic and other means.
14. The right to free choice of domicile, movement and travel within the country and abroad, to seek asylum, migration and exile, and against travel restrictions for political reasons or objectives.
15. The right not to be subjected to forced evacuations, food and other forms of economic blockades and indiscriminate bombings, shellings, strafing, gunfire and the use of landmines.
16. The right to information on matters of public concern and access to records, documents and papers pertaining to acts, transactions or decisions of persons in authority.
17. The right to universal suffrage irrespective of sex, race, occupation, social origin, property, status, education, ideological and political conviction, and religious belief.

18. The right to own property and the means of production and consumption that are obtained through land reform, honest labor and entrepreneurship, skill, inventiveness and intellectual merit and to use such means for the common good.
19. The right to gainful employment, humane working and living conditions, livelihood and job security, to work and equal pay, to form unions, to strike and participate in the policy and decision-making processes affecting their rights and interests, and the right not to be denied these rights due to nationality, creed, minority status, gender or sexual preference, or civil status.
20. The right to universal and free elementary and secondary education, and access to basic services and health care.
21. The right to freely engage in scientific research, technological invention, literary and artistic creations and other cultural pursuits.
22. The right to form a marital union and to found a family, and to ensure family communications and reunions.
23. The equal right of women in all fields of endeavor and in all spheres of political, economic, cultural, social and domestic life and to their emancipation.
24. The right of children and the disabled to protection, care and a home, especially against physical and mental abuse, prostitution, drugs, forced labor, homelessness, and other similar forms of oppression and exploitation.
25. The existing rights of the minority communities in the Philippines to autonomy, to their ancestral lands and the natural resources in these lands, to engage in and benefit from affirmative action, to their participation and representation in the economic, political and social life and institutions, and to cultural and all round development.

Article 3

The Parties decry all violations and abuses of human rights. They commend the complainants or plaintiffs in all successful human rights proceedings. They encourage all victims of violations and abuses of human rights or their surviving families to come forward with their complaints and evidence.

Article 4

The persons liable for violations and abuses of human rights shall be subject to investigation and, if evidence warrants, to prosecution and trial. The victims or their survivors shall be indemnified. All necessary measures shall be undertaken to remove the conditions for violations and abuses of human rights and to render justice to and indemnify the victims.

Article 5

The Parties hereby respect and support the rights of the victims of human rights violations during the Marcos regime, taking into consideration the final judgment of the United States Federal Court System in the Human Rights Litigation Against Marcos; Senate Resolution 1640; Swiss Supreme Court Decision of 10 December 1997; and pertinent provisions of the U.N. Covenant on Civil and Political Rights and the 1984 U.N. Convention Against Torture.

Should there be any settlement, the GRP shall also execute with the duly authorized representatives of the victims a written instrument to implement this Article and guide the satisfaction of the claims of said victims, with regard to the amount and mode of compensation, which shall be the most direct and quickest possible to every victim or heir in accordance with the relevant Swiss Supreme Court decisions.

In case of any settlement outside of U.S. jurisdiction, all or the majority of said victims shall determine their representation by power of attorney.

Article 6

The GRP shall abide by its doctrine laid down in *People vs. Hernandez* (99 Phil. 515, July 18, 1956), as further elaborated in *People vs. Geronimo* (100 Phil. 90, October 13, 1956), and shall forthwith review the cases of all prisoners or detainees who have been charged, detained, or convicted contrary to this doctrine, and shall immediately release them.

Article 7

The GRP shall work for the immediate repeal of any subsisting repressive laws, decrees, or other executive issuances and for this purpose, shall forthwith review, among others, the following: General Orders 66 and 67 (authorizing checkpoints and warrant less searches); Presidential Decree 1866 as amended (allowing the filing of charges of illegal possession of firearms with respect to political offenses); presidential Decree 169 as amended (requiring physicians to report cases of patients with gunshot wounds to the police/military); Batas Pambansa 880 (restricting and controlling the right to peaceful assembly); Executive Order 129 (authorizing the demolition of urban poor communities); Executive Order 264 (legalizing the Citizens' Armed Force Geographical Units); Executive Order 272 (lengthening the allowable periods of detention); Memorandum Circular 139 (allowing the imposition of food blockades); and Administrative Order N^o 308 (establishing the national identification system).

Upon the effectivity of this Agreement, the GRP shall, as far as practicable, not invoke these repressive laws, decrees and orders to circumvent or contravene the provisions of this Agreement.

Article 8

The GRP shall review its jurisprudence on warrant less arrests (Umil vs. Ramos), checkpoints (Valmonte vs. De Villa), saturation drives (Guazon vs. De Villa), warrant less searches (Posadas vs. Court of Appeals), criminalization of political offenses (Bayloisis vs. Chavez), rendering moot and academic the remedy of habeas corpus upon the subsequent filing of charges (Ilagan vs. Ponce-Enrile), and other similar cases, and shall immediately move for adoption of appropriate remedies consistent with the objectives of this and the immediately preceding Article.

Upon the effectivity of this Agreement, the GRP shall, as far as practicable, not invoke these decisions to circumvent or contravene the provisions of this Agreement.

Article 9

The Parties shall take concrete steps to protect the lives, livelihood, and properties of the people against incursions from mining, real state, logging, tourism or other similar projects or programs.

Article 10

The Parties shall promote the basic collective and individual rights of workers, peasants, fisher folk, urban poor, migrant workers, ethnic minorities, women, youth, children and the rest of the people and shall take concrete steps to stop and prevent the violations of human rights, ensure that those found guilty of such violations are punished, and provide for the indemnification, rehabilitation and restitution of the victims.

Article 11

The GRP shall respect the basic rights guaranteed by the International Labor Convention on Freedom of Association and Protection of the Right to Organize and the standards set by the International Labor Organization (ILO) pertaining to job tenure, wage and living condition, trade union rights and medical and social insurance of all workers, right of women workers to maternity benefits and against discrimination vis-à-vis male workers, right against child labor, and the rights of migrant workers abroad in accordance with the International Covenant on the Rights of Migrant Workers and Members of their Families.

Article 12

The GRP shall respect the rights of peasants to land tenure and to own through land reform the land that they till, the ancestral rights of the indigenous peoples in the areas classified as public domain and their rights against racial and ethnic discrimination, the right of the poor homesteaders or settlers and the indigenous people to the areas of public domain on which they live and work and the right of poor fisher folk to fish in the waters of the Philippines.

The GRP shall forthwith review its laws or other issuances pertinent to the rights mentioned in this and the immediately preceding Article and shall move for the immediate repeal of those found violative of such rights.

Article 13

The Parties shall promote and carry out campaigns of human rights education, land reform, higher production, health and sanitation and others that are of social benefit to the people. They shall give the utmost attention to land reform as the principal measure for attaining democracy and social justice.

PART IV

RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

Article 1

In the exercise of their inherent rights, the Parties to the armed conflict shall adhere to and be bound by the generally accepted principles and standards of international humanitarian law.

Article 2

These principles and standards apply to the following persons:

1. civilians or those taking no active part in the hostilities;
2. members of armed forces who have surrendered or laid down their arms;
3. those placed hors de combat by sickness, wounds of any other cause;
4. persons deprived of their liberty for reasons related to the armed conflict; and,
5. relatives and duly authorized representatives of above-named persons.

Article 3

The following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the persons enumerated in the preceding Article 2:

1. violence to life and person, particularly killing or causing injury, being subjected to physical or mental torture, mutilation, corporal punishment, cruel or degrading treatment and all acts of violence and reprisals, including hostage-taking, and acts against the physical well-being, dignity, political convictions and other human rights;
2. holding anyone responsible for an act that she/he has not committed and punishing anyone without complying with all the requisites of due process;
3. requiring persons deprived of their liberty for reasons related to the armed conflict to disclose information other than their identity;
4. desecration of the remains of those who have died in the course of the armed conflict or while under detention, and breach of duty to tender immediately such remains to their families or to give them decent burial;
5. failure to report the identity, personal condition and circumstances of a person deprived of his/her liberty for reasons related to the armed conflict to the Parties to enable them to perform their duties and responsibilities under this Agreement and under international humanitarian law;
6. denial of the right of relatives and duly authorized representatives of a person deprived of liberty for reasons related to the armed conflict to inquire whether a person is in custody or under detention, the reasons for the detention, under what circumstances the person in custody is being detained, and to request directly or through mutually acceptable intermediaries for his/her orderly and expeditious release;
7. practices that cause or allow the forcible evacuations or forcible reconcentration of civilians, unless the security of the civilians involved or imperative military reasons so demand; the emergence and increase of internally displaced families and communities, and the destruction of the lives and property of the civilian population;
8. maintaining, supporting and tolerating paramilitary groups such as armed religious fanatical groups, vigilante groups, private armed groups of businessmen, landlords and politicians, and private security agencies which are being used in land and labor disputes and the incursions in Article 9, Part III of this Agreement; and,
9. allowing the participation of civilian or civilian officials in military field operations and campaigns.

Article 4

The principles and standards of international humanitarian law shall likewise apply and protect the rights of persons, entities or objects involved or affected in any of the cases or situations cited hereunder.

1. Persons hors de combat and those who do not take a direct part in hostilities are entitled to respect for their lives, dignity, human rights, political convictions and their moral and physical integrity and shall be protected in all circumstances and treated humanely without any adverse distinction founded on race, color, faith, sex, birth, social standing or any other similar criteria.
2. The wounded and the sick shall be collected and cared for by the party to the armed conflict which has them in its custody or responsibility.

3. Neutral persons or entities and medical personnel, including persons of humanitarian and/or medical organizations like the International Committee of the Red Cross (ICRC), shall be protected and respected. The establishments, facilities, transport and equipments of these persons, entities and organizations; objects bearing the emblem of the red cross and the flag of peaceful intention; and historic monuments, cultural objects and places of worship shall likewise be protected.
4. Civilian population and civilians shall be treated as such and shall be distinguished from combatants and, together with their property, shall not be the object of attack. They shall likewise be protected against indiscriminate aerial bombardment, strafing, artillery fire, mortar fire, arson, bulldozing and other similar forms of destroying lives and property, from the use of explosives as well as the stockpiling near or in their midst, and the use of chemical and biological weapons.
5. Civilians shall have the right to demand appropriate disciplinary actions against abuses arising from the failure of the Parties to the armed conflict to observe the principles and standards of international humanitarian law.
6. All persons deprived of their liberty for reasons related to the armed conflict shall be treated humanely, provided with adequate food and drinking water, and be afforded safeguards as regards to health and hygiene, and be confined in a secure place. Sufficient information shall be made available concerning persons who have been deprived of their liberty. On humanitarian or other reasonable grounds, such persons deprived of liberty shall be considered for safe release.
7. The ICRC and other humanitarian and/or medical entities shall be granted facilitation and assistance to enable them to care for the sick and the wounded and to undertake their humanitarian missions and activities.
8. Personnel and facilities of schools, the medical profession, religious institutions and places of worship, voluntary evacuation centers, programs and projects of relief and development shall not be the target of any attack. The persons of said entities shall be guaranteed their safety.
9. Every possible measure shall be taken, without delay, to search for and collect the wounded, sick and missing persons and to protect them from any harm and ill treatment, to ensure their adequate care and to search for the dead, prevent despoliation and mutilation and to dispose of them with respect.

Article 5

The Parties decry all violations of the principles of international humanitarian law. They encourage all victims of such violations or their surviving families to come forward with their complaints and evidence.

Article 6

The persons liable for violations of the principles of international humanitarian law shall be subject to investigation and, if evidence warrants, to prosecution and trial. The victims or their survivors shall be indemnified. All necessary measures shall be undertaken to remove the conditions for such violations and to render justice to and indemnify the victims.

Article 7

The GRP shall review and undertake to change policies, laws, programs, projects, campaigns, and practices that cause or allow the forcible evacuation and reconcentration of civilians, the emergence and increase of internally displaced families and communities and the destruction of the lives and property of the civilian population.

Article 8

The GRP shall continue to review its policy or practice of creating, maintaining, supporting, or allowing paramilitary forces like the Civilian Armed Forces Geographical Units (CAFGUs) and Civilian Volunteers' Organizations (CVOs) or any other similar groups.

Article 9

Internally displaced families and communities shall have the right to return to their places of abode and livelihood, to demand all possible assistance necessary to restore them to their normal lives and to be indemnified for damages suffered due to injuries and loss of lives.

Article 10

The Parties shall provide special attention to women and children to ensure their physical and moral integrity. Children shall not be allowed to take part in hostilities.

Article 11

Medical, religious and other humanitarian organizations and their personnel shall not carry out other tasks inimical to any of the Parties. Neither shall they be compelled to carry out tasks which are not compatible with their humanitarian tasks. Under no circumstances shall any person be punished for having carried out medical activities compatible with the principles of medical ethics, regardless of whoever is benefiting from such medical activities.

Article 12

Civilian population shall have the right to be protected against the risks and dangers posed by the presence of military camps in urban centers and other populated areas.

Article 13

The Parties recognize the right of the people to demand the reduction of military expenditures and the rechanneling of savings from such reduction towards social, economic and cultural development which shall be given the highest priority.

Article 14

The Parties shall promote and carry out campaigns of education on international humanitarian law, especially among the people involved in the armed conflict and in areas affected by such conflict.

PART V

JOINT MONITORING COMMITTEE

Article 1

The Parties shall form a Joint Monitoring Committee that shall monitor the implementation of this Agreement.

Article 2

The Committee shall be composed of three members to be chosen by the GRP Panel and three members to be chosen by the NDFP Panel. Each Party shall nominate two representatives of human rights organizations and to sit in the committee as observers and to do so at the pleasure of the nominating Party. The Committee shall have co-chairpersons who shall serve as chief representatives of the Parties and shall act as moderators of meetings.

Article 3

The co-chairpersons shall receive complaints of violations of human rights and international humanitarian law and all pertinent information and shall initiate requests or recommendations for the implementation of this Agreement. Upon its approval by consensus, the Committee shall request the investigation of a complaint by the Party concerned and make recommendations. By consensus, it shall make reports and recommendations on its work to the Parties.

Meetings of the Committee shall be every three months and as often as deemed necessary by the co-chairpersons due to an urgent issue or complaint. The meetings shall be held in the Philippines or in any other venue agreed upon by the Parties.

Article 4

Members of the Committee and the observers shall be entitled to the safety and immunity guarantees stipulated by the Joint Agreement on Safety and Immunity Guarantees.

Article 5

The Committee shall create a joint secretariat that shall provide staff support. Each Party shall nominate an equal number of members in the joint secretariat who shall serve at the pleasure of the nominating Party.

Article 6

The Committee shall be organized upon the effectivity of this Agreement and shall continue to exist until dissolved by either Party by sending to the other Party a written notice of dissolution which shall take effect thirty days after official receipt. Dissolution of the Committee shall not mean the abandonment of rights and duties by any Party under this Agreement and under the principles and standards of human rights and international humanitarian law.

PART VI

FINAL PROVISIONS

Article 1

The Parties shall continue to assume separate duties and responsibilities for upholding, protecting and promoting human rights and the principles of international humanitarian law in accordance with their respective political principles, organizations and circumstances until they shall have reached final resolution of the armed conflict.

Article 2

The Parties recognize the applicability of the principles of human rights and principles of international humanitarian law and the continuing force of obligations arising from these principles.

Article 3

Nothing in the provisions of this Agreement nor in its application shall affect the political and legal status of the Parties in accordance with the Hague Joint Declaration. Subsequently, this Agreement shall be subject to the Comprehensive Agreements on Political and Constitutional Reforms and on End of Hostilities and Disposition of Forces. Any reference to the treaties signed by the GRP and to its laws and legal processes in this Agreement shall not in any manner prejudice the political and organizational integrity of the NDFP.

Article 4

The Parties may from time to time review the provisions of this Agreement to determine the need to adopt a supplemental agreement or to modify the provisions hereof as circumstances require.

Article 5

This Agreement shall be signed by the Negotiating Panels and shall take effect upon approval by their respective Principals.

IN WITNESS, we sign this Agreement this 16th day of March 1998 in The Hague, The Netherlands.

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

- By: Amb. Howard Q. Dee; Chairpersons, GRP Negotiating Panel
- Rep. Jose V. Yap, Member
- Sec. Silvestre H. Bello III, Member
- Ms. Zenaida H. Pawid, Member

FOR THE NATIONAL DEMOCRATIC FRONT OF THE PHILIPPINES

- By Luis G. Jalandoni; Chairperson, NDFP Negotiating Panel
- Fidel V. Agcaoili, Member
- Coni K. Ledesma, Member
- Asterio B. Palima, Member
- Jojo s. Magdiwang, Member

WITNESSES:

- Hon. Jose C. de Venecia. Speaker, House of Representatives GRP
- Jose MA. Sison. Chief Political Consultant NDFP Negotiating Panel
- Usec. A. Wilfredo Clemente, DECS, GRP
- Antonio L. Zumel, Senior Adviser
- Ms. MA. Carla L. Munsayac, Executive Director GRP Negotiating Panel Secretariat
- Romeo T. Capulong, General Counsel NDFP Negotiating Panel