

December 20, 2007

PROFESSOR PHILIP ALSTON

Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
Special Adviser, Human Rights Commission
United Nations

Dear Professor Alston:

I am Undersecretary Ricardo R Blancaflor of the Department of Justice, formerly the Undersecretary for legal Affairs and Special Concerns of the Defense Department. I believe we have met during the conference in the country presided by the Chief of Staff of the Armed Forces of the Philippines during your recent visit. I am writing you to relay details of recent events in the Philippines, which I am sure, would appeal to your interest.

It is public knowledge that our country has been unjustly subjected to severe criticism for its allegedly passive stance towards political violence, particularly extrajudicial killings. The Philippine Government asserts the fact that there is no such a policy of state-sponsored atrocity despite wildly claimed and pernicious belief of some sectors of our society. But more importantly, the government is adamant to address this lingering issue of political violence once and for all.

As a matter of fact, President Gloria Macapagal-Arroyo constituted a Task Force Against Political Violence by issuing Administrative Order No. 211 on November 26, 2007 [otherwise known as “*Task Force 211*”] with the mandate to undertake the prevention, investigation, prosecution and punishment of political violence; the care and protection of people and communities victimized and threatened with violence; and the promotion of a culture opposed to violence and for the advancement of reconciliation and peace. One of the immediate objectives of the Task Force is to produce tangible results by securing the conviction of people tried of crimes related to political violence or by starting the judicial process for those accused of committing political violence. I was chosen to head this Task Force.

The Task Force 211 intends to utilize the findings and recommendations of your report as it performs its mandate. However, I would like to bring to your attention on the portion of your report titled Killings of the New Peoples’ Army, wherein you reported the following findings:

*31. Discussions with NDF representatives and review of published CPP/NPA/NDF documents did, however, reveals several practices that are inconsistent with international human rights and humanitarian law. First, the CPP/NPA/NDF considers “intelligence personnel” of the AFP, PNP, and paramilitary groups to be legitimate targets for military attack. Some such persons no doubt are combatants or civilians directly participating in hostilities; however, the **CPP/NPA/NDF defines the category so broadly as to encompass even casual Government informers, such as peasants who answer when asked by AFP soldiers to identify local CPP members or someone who calls the police when faced with NPA extortion. Killing such individuals violates international law.***

*32. **Second, the CPP/NPA/NDF’s system of “people’s courts” is either deeply flawed or simply a sham. The question whether the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) can be interpreted to affirm the CPP/NPA/NDF’s contention that it has a right to constitute courts and conduct trials is a matter of controversy. However, insofar as the CPP/NPA/NDF does conduct trials, international humanitarian law (IHL) unambiguously requires it to ensure respect for due process rights. One telling due process violation is that, while a people’s court purportedly requires “specification of charges . . . prior to trial”, the **CPP/NPA/NDF lacks anything that could reasonably be characterized as a penal code. It is apparent that the CPP/NPA/NDF does impose punishments for both ordinary and counterrevolutionary*****

crimes in areas of the country that it controls. But NDF representatives were unable to provide me with any concrete details on the operation of the people's court system. This suggests that little or no judicial process is involved. In some cases, the use of people's courts would appear to amount to little more than an end run around the principle of noncombatant immunity. In other words, it seeks to add a veneer of legality to what would better be termed vigilantism or murder. Failure to respect due process norms constitutes a violation of IHL for the NPA/ CPP/ NDF and may constitute a war crime for participating cadres.

As the Philippine Government remains committed to find solutions and closure on this issue, the CPP-NPA is out to dispense their brand of justice, which you correctly referred to as deeply flawed and a sham.

Last December 15, 2007, the CPP-NPA claimed responsibility for the killing of Expedito Ribaya in Ligao City, calling it "revolutionary justice". Florante Orobias, spokesperson of the NPA in Albay, said Ribaya was one of those behind the murder of Bayan Muna provincial coordinator Rodolfo Alvarado last year. He said Ribaya was killed in an "arrest" operation conducted by guerrillas Dec. 12, 2007. Orobias said a "deep investigation" conducted by the NPA's Santos Binamera Command proved that Ribaya directly conspired with military death squads in killing Alvarado, who was a Bayan Muna party-list nominee.

It is with absolute certainty that Expedito Ribaya's name will be excluded in the list of victims of extra judicial killings as the CPP NPA deems it is an exercise of revolutionary justice.

This is clearly a vicious reversal of roles. The victim is now the culprit.

It is quite ironic that while this government is judiciously trying to implement your recommendations, the CPP/NPA is making a mockery of the same. The entire world must know the activities of the CPP/NPA. Your office must tell the whole truth.

Thank you.

SIGNED

UNDERSECRETARY RICARDO R. BLANCAFLOR
Department of Justice
TASK FORCE 211 Chairman