

Republic of the Philippines
REGIONAL TRIAL COURT
National Capital Judicial Region
Branch 19, Manila

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Department of Justice,

Plaintiff,

-versus-

Civil Case No. R-MNL-18-00925-CV

The Communist Party of the
Philippines and the New People’s
Army *a.k.a.* Bagong Hukbong Bayan,
Respondents.

x-----x

RESOLUTION

“In my opinion one of the surest means to ease the uprising is a sincere demonstration of this Government’s adherence to the principles of the Constitution, together with an impartial application thereof to all citizens, whether dissidents or not. Let the rebels have no reason to apprehend that their comrades now under custody are being railroaded into Muntinglupa, without benefit of those fundamental privileges which the experience of the ages has deemed essential for the protection of all persons accused of crime before the tribunal of justice. Give them the assurance that the judiciary, ever mindful of its sacred mission will not, thru faulty cogitation or misplaced devotion, uphold any doubtful claims of Governmental power in diminution of individual rights

*Separate Opinion, J. Fernando,
People v. Jose Lava,
G.R. No. L-4974 -78, 16 May 1979)*

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The instant Petition for proscription was filed on 21 February 2018 by the Department of Justice (“DOJ”) against the Communist Party of the Philippines (“CPP”) and the “New People’s Army” (“NPA”) (hereafter jointly and singly referred to as “CPP-NPA”). It prayed that the Court declare as terrorist groups the two respondent organizations under Section 17 of R.A. 9372 or “An Act to Secure the State and Protect Our People from Terrorism”; otherwise known as the “Security Act of 2007” (hereafter HSA 2007). Section 17 of the Act states:

“Sec. 17. Proscription of Terrorist Organizations, Association, or Group of Persons. — Any organization, association, or group of persons organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts to terrorize mentioned in this Act or to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the organization, association, or group of persons concerned, be declared as a terrorist and outlawed organization, association, or group of persons by the said Regional Trial Court.”

As so stated in the Petition, the CPP was organized in January of 1968 with the aim of “overthrow(ing) the duly constituted authorities and seizing control of the Philippine government through armed struggle. The NPA, on the other hand, is the armed wing of the CPP. Quoting Jose Maria Sison *a.k.a. Amado Guerrero*, the Petitioner describes the NPA as being “under the leadership of the CPP, under the powerful illumination of the Marxism-Leninism-Mao Zedong thought. This army has valiantly and victoriously fought for the national and democratic interest of the Filipino people against United States’ (“US”) imperialism,

feudalism, and bureaucratic capitalism. It has brilliantly proven itself to be the authentic, enduring and mighty sword of the people in a protracted people's war against foreign and feudal domination."

Service of Summons

The Petition alleges that both the CPP and the NPA have no known addresses, and that they operate clandestinely in various parts of the Philippine territory through officers and members who also have no identified addresses. Enumerated in the body of the Petition were 600 names of alleged officers and members as well as seven (7) alleged members and their addresses, through whom summons and court processes can be served. On 23 February 2018 and 22 March 2018, respectively, the summons was issued and served, on the seven (7) personalities named in the petition, in accordance with Section 8 of Rule 14 of the Rules of Court, *viz.*,

"Sec. 8. *Service upon entity without juridical personality.* – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was brought."

The service of summons sparked a flurry of motions from the seven (7) named individuals as well as from some of the 600 personalities who, even if not served with summons, were named in the body of the Petition. Each of them disavowed any connection to the CPP-NPA. They sought either the dismissal of the Petition or their discharge as party-respondents and also charged the petitioner with red-tagging them, alleging that their inclusion among the enumerated members of the CPP-NPA, in the absence of any evidence, had exposed them to public vilification and possible reprisal from the military.

In a Resolution, dated 27 July 2018, the Court recalled the summons on the ground that the persons to whom they were directed, had denied, and were not proven to have, unassailable links to the respondent organizations. It likewise declared the personalities enumerated in the Petition to be non-parties due to lack of proof of their unassailable links to the CPP-NPA as well as their disavowal of membership to said organizations. As it has emphasized in the Resolution, the instant petition for proscription is not directed against individual persons, but to respondent organizations. The respondents being organizations that can only act through their members and representatives, it becomes imperative for the petitioner that summons be served only to persons with known, undeniable links to the CPP-NPA.

On 03 January 2019, the DOJ submits an Amended Petition, containing another enumeration of the names of the officers of the respondent organizations, which now include Jose Maria Sison y Canlas; Jaime Padilla, Francisco Fernandez; Cleofe Lagtapon y Sabadisto; Antonio Cabanatan; Leonido Nabong; and Myrna Sularte. Alleging that the addresses of the foregoing personalities are not known to the Petitioner, it is likewise prayed that summons be served through publication. In its Resolution of 01 February 2019, the Court admits the amended Petition.

It has, however, held that of the eight (8) officers of the respondent organizations who are named in the Amended Petition through whom summons could be served, only two of them, *i.e.*, Jose Maria Sison y Canlas, the chairman of the CPP and Antonio Cabanatan, the Secretary of the Mindanao Commission, are shown, through the petitioner's documentary attachments to the Petition, to have established links to the CPP-NPA. The Court further holds that Jose Maria Sison's stature as the head of the CPP, as well as the fact that he is currently in the Netherlands, is information which is of public knowledge and of which the Court is taking judicial cognizance (*Section 2, Rule 129*). In view of the foregoing, the Court then directs that summons to the respondent organizations be served through Jose Maria Sison and Antonio Cabanatan. Their addresses being unknown, the Court likewise grants the prayer of the petitioner to serve summons by publication.

On 14 June 2019, the Petitioner files its third Amended Petition, this time, limiting the number of persons to be served with summons in behalf of the respondent organizations.

When, eleven (11) months since the Court's last Order, the petitioner still did not cause the publication of summons the Court summarily dismissed the Petition. On 07 February 2020, upon motion of the petitioner, the Court reconsidered its order of dismissal and reinstated the Petition.

Summons was finally published in the 08 February 2020 issue of the "People's Journal Tonight." When no responsive pleading was filed within the reglementary period, the petitioner, on 07 July 2020, filed a motion to declare the respondents in default. The motion was granted by the Court on 25 August 2020.

After pre-trial, a Pre-Trial Order, (as amended), dated 12 October 2020, was issued by the Court, identifying therein the following issues for resolution:

1. Whether or not the CPP and the NPA were organized for the purpose of engaging in terrorism;
2. Whether or not the CPP and the NPA used acts of terror to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand; and,

3. Whether or not the CPP and the NPA should be declared as terrorist and outlawed organizations, associations and/or group of persons pursuant to Section 17 of R.A. 9372.

In the same Order, the Court noted that the petitioner would present a total of 17 witnesses in support of the petition. The respondent organizations having been declared in default, the petitioner proceeded to present evidence ex-parte.

In the meantime, on 03 July 2020, R.A. 11479, or “An Act to Prevent, Prohibit and Penalize Terrorism, thereby repealing Republic Act No. 9372 otherwise known as the Human Security Act of 2007”, or the **“The Anti-Terrorism Act of 2020” (ATA 2020)** was enacted. It expressly repealed the Human Security Act of 2007, *viz.*,

“Section 56. Repealing Clause. – Republic Act No. 9372, otherwise known as the “Human Security Act of 2007”, is hereby repealed. All laws, decrees, executive orders, rules or regulations or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.”

However, it contained a saving clause, *viz.*,

“Section 57. Saving Clause. - All judicial decisions and orders issued, as well as pending actions relative to the implementation of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", prior to its repeal shall remain valid and effective.”

Under the ATA 2020, the provision pertaining to judicial proscription of terrorist organizations, associations, or group of persons now provides:

“Section 26. Proscription of Terrorist Organizations, Association, or Group of Persons.- Any group of persons, organization, or association, which commits any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, or organized for the purpose of engaging in terrorism shall, upon application of the DOJ before the authorizing division of the Court of Appeals with due notice and opportunity to be heard given to the group of persons, organization or association, be declared as a terrorist and outlawed group of persons, and organization or association, by the said Court.

“The application shall be filed with an urgent prayer for the issuance of a preliminary order or proscription. No application for proscription shall be filed without the authority of the ATC upon the recommendation of the National Intelligence Coordinating Agency (NICA).”

The Petitioner’s evidence consisted of testimonies of no less than seventeen (17) witnesses as well as the documentary evidence which these witnesses have identified. Due to the pandemic, these testimonies have been made through videoconferencing, with the witnesses testifying from different parts of the country. The last witness for the Petitioner testified on 14 September 2021.

I. Jurisdictional Matters

Amicus Curiae

Recognizing the wide-reaching ramifications of its Decision and the complexity of the issues, the Court invited various organizations to submit their amicus curiae briefs on the following identified jurisdictional issues:

1) Whether the Regional Trial Court retains jurisdiction over the subject matter of the Petition, notwithstanding the passage of the ATA 2020;

2) What evidence is needed to prove “terrorism?” Is it evidence pursuant to the definition of “terrorism” under the repealed HSA of 2007; or, “terrorism” as defined under the present ATA 2020?

Among the different organizations invited, only the Philippine Bar Association heeded the request. It submitted its amicus curiae brief on 14 July 2022.¹

Whether the Regional Trial Court retains jurisdiction over the Petition, notwithstanding the passage of the ATA 2020.

The continued reception of evidence by this Court notwithstanding the passage of ATA 2020 two years after the filing of the instant Petition expressly repealing HSA 2007 and placing petitions for the proscription of terrorist organizations within the jurisdiction of the Court of Appeals was due to this Court’s reliance on ATA’s Section 57, hereafter referred to as the “**saving clause.**”

“Section 57. Saving Clause. - All judicial decisions and orders issued, as well as pending actions relative to the implementation of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", prior to its repeal shall remain valid and effective.”

This Court, given the foregoing saving clause in ATA 2020 has effectively – 1) preserved its jurisdiction over the instant petition for proscription which remains pending at the time of the passage of ATA 2020; and, 2) preserved the application of the definition of “terrorism”, “terrorist acts” and “terrorist groups” under repealed HSA 2007 in determining the merits of the instant petition. The Court has arrived at this conclusion on the basis of the following considerations:

First, while repeal of a penal law generally deprives the court of jurisdiction, the saving clause in ATA 2020 is an exception to the general rule.

¹ The brief was ably written for the PBA by Attorney Alfredo B. Molo III and Attorney Darwin P. Angeles.

A penal law is defined as an act of the legislature that prohibits certain acts and establishes penalties for its violation. It also defines crime, treats of its nature and provides for its punishment (*Elvira Yu Oh v. CA, G.R. No. 125297, June 6, 2003, 403 SCRA 300, 308, cited in Juanito R. Rimado vs. COMELEC and Norma O. Magno, G.R. No. 176364, September 18, 2009*). Taken as a whole, HSA 2007 is a penal law in that it defines and enumerates what constitutes terrorist acts and provides for their punishment. Moreover, the Supreme Court, faced with the question of the constitutionality of HSA 2007 has unequivocally declared that the same is a penal statute (*Southern Hemisphere Engagement Network, Inc., on behalf of the South-South Network (SSN) for Non-State Armed Group Engagement, et. al., vs. Anti-Terrorism Council, et. al., G.R. No. 178552, October 5, 2010, etc*). In particular, Section 3 of HSA 2007, in defining “terrorism” has enumerated “terrorist acts” as those which pertain to crimes defined and penalized under the Revised Penal Code and special penal laws, with the added qualification that they must be committed with the purpose of “sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand.” Moreover, both HSA 2007 and ATA 2020 provide for penalties for those who are found to have committed terrorism (*Section 3, HSA 2007*), those who have participated in a conspiracy to commit terrorism (*Section 4, HSA 2007*) and those who are adjudged to be either an accomplice or an accessory (*Section 5, 6, HSA 2007*) to the either the crime of terrorism or the conspiracy to commit terrorism. For instance, those who are adjudged as terrorists are penalized to suffer the penalty of forty (40) years of imprisonment, without the benefit of parole.”

The effect of a repeal of a penal law on a pending case depends on the nature of the repeal. As a rule, an absolute repeal deprives the court of its authority to punish a person charged with violation of the old law prior to the repeal. This is because an unqualified repeal constitutes a legislative act of rendering legal what had been previously declared as illegal, such that the offense no longer exists and it is as if the person who has committed it has never done so (*Benedicto vs. Court of Appeals, G.R. No. 125359, 04 September 2001*). An absolute repeal of a penal law therefore, effectively deprives a court of its authority to punish a person charged with violation of the old law prior to its repeal (*People v. Almuete, 69 SCRA 410 (1976)*).

However, the foregoing rule admits of exceptions.

The first exception is when the saving clause in the repealing statute provides that the repeal shall have no effect on pending actions. A saving clause in the repealing statute, operates to except from the effect of the repealing law what would otherwise be lost under the new law (*see Buscayno v. Military Commission Nos. 1, 2, 6, and 25, 109 SCRA 273, 287 (1981); Ibañez de Aldecoa v. Hong Kong & Shanghai Bank, 30 Phil. 228, 246 (1915) cited in Benedicto and Rivera vs. Court of Appeals, et. al., G.R. No. 125359, September 04, 2001*). A

second exception is where the repealing act re-enacts the former statute and punishes the act previously penalized under the old law. In such an instance, the act committed before the re-enactment continues to be an offense in the statute books and pending cases are not affected, regardless of whether the new penalty to be imposed is more favourable to the accused” (*Securities and Exchange Commission vs. Interport Resources Corporation, G.R. No. 135808, October 6, 2008*).

The instant proscription proceeding falls within the coverage of the two exceptions – ATA 2020, in repealing HSA 2007 contains a saving clause providing that the repeal has no effect on pending actions filed under HSA 2007. Secondly, it re-enacts HSA 2007 by punishing essentially the same acts previously penalized under HSA 2007. In this case, the repeal merely modifies the conditions affecting the crime under the repealed law.

The Court, in the exercise of its jurisdiction under the HSA of 2007, will apply its “defining” provisions in the proceedings.

In explicitly stating that actions pending under the HSA of 2007 shall remain effective, ATA 2020 not only maintains the jurisdiction of the RTC in said cases, it also impliedly provides that crucial parts of the repealed law, particularly the definition of “terrorism” “terrorist acts” or “terrorist groups” under the HSA of 2007 would still hold sway in the pending action. A contrary ruling would have the effect of imposing standards of proof and evidence that may have been inexistent at the time the first action is filed. In criminal proceedings, this would be akin to the application of an *ex-post facto law*, which is defined as that, which:

- (1) makes criminal an act done before the passage of the law and which was innocent when done, and punishes such an act;
- (2) aggravates a crime, or makes it greater than it was, when committed;
- (3) changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed;
- (4) alters the legal rules of evidence, and authorizes conviction upon less or different testimony than the law required at the time of the commission of the offense;
- (5) assuming to regulate civil rights and remedies only, in effect imposes penalty or deprivation of a right for something which when done was lawful; and
- (6) deprives a person accused of a crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty (*Calder vs. Bull, 3 Dall. 386, MeKin vs. Wolfe, 2 Phil. 74, cited in “In the Matter of the Petition for the Declaration of the Petitioner’s Rights and Duties Under Sec. 8 of R.A. No. 6132 Kay Villegas Kami, Inc., Petitioner,” G.R. No. L-32485, October 22, 1970*).

As will be explained, an application of ATA 2020 to the present Petition will be violative of the constitutional prohibition against *ex-post facto* laws.

The present Petition seeks proscription against the respondent organizations for having committed the following “terrorist acts” (see *paragraph 35, Petition*), *viz.*,

1. Extortion in the collection of revolutionary taxes;
2. Ambuscades of PNP and AFP personnel resulting to deaths and physical injuries;
3. Atrocities against civilians;
4. Attacks on business establishments resulting to destruction of property and seizure of firearms;
5. Armed attacks on PNP stations.

The foregoing acts can be classified as terrorist acts under the HSA of 2007, as enumerated in Section 3 thereof, *viz.*,

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

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

“b. Article 134 (Rebellion or Insurrection);

“c. Article 134-a (Coup d’état), including acts committed by private persons;

“d. Article 248 (Murder);

“e. Article 267 (Kidnapping and Serious Illegal Detention);

“f. Article 324 (Crimes Involving Destruction), or under:

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

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

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

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

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

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

Sections 4, 5 and 6 of HSA 2007 further penalize conspirators, accomplices or accessories to the foregoing criminal acts.

On the other hand, the present ATA 2020 has done away with defining terrorism on the basis of predicate crimes defined under the Revised Penal Code and other special penal laws. Rather, it has defined “terrorism” as through “acts” committed by any person, who within or outside the Philippines, regardless of stage of execution:

- “(a) Engages in acts intended to cause death or serious bodily injury to any person or endangers a person’s life;
- “(b) Engages in acts intended to cause extensive damage or destruction to a government or public facility, public place or private property;
- “(c) Engages in acts intended to cause extensive interference with, damage or destruction to critical infrastructure;
- “(d) Develops, manufactures, possesses, acquires, transports, supplies, or uses weapons explosives or of biological, nuclear, radiological or chemical weapons and,
- “(e) Release of dangerous substances or causing fire, floods or explosions.”

Clearly, ATA 2020 punishes essentially the same acts previously penalized under HSA 2007. This means that the repeal brought about by the former merely modifies the conditions affecting the crimes under the repealed law. The effect of such a modification brought about by a repealing law that re-enacts the old law further depends on whether the same is prejudicial or beneficial to the offender. If the case is pending in court involving the violation of the repealed law and the repealing law is more favourable to the accused, it shall be the one applied to him, unless there is a saving clause in the repealing law which provides that it shall not apply to pending causes of action.

While it may appear that the “terrorist acts” as alleged in the present Petition do not essentially vary in their characterization either under the HSA 2007 or under the ATA 2020, material differences become apparent on closer look. As earlier observed, terrorist acts as defined and enumerated in HSA 2007 pertain to crimes which are defined and penalized under the RPC and special penal laws. In contrast, the terrorist acts as are defined and enumerated in ATA 2020 do not make any reference to any existing penal provision either in the RPC or in any special penal law. Devoid of any defining parameters or defining elements which are characteristic of penal laws, it may be said that the terrorist acts under ATA 2020, are broader and more encompassing, if compared to the terrorist acts enumerated under the HSA 2007.

Second, to qualify as terrorist acts under HSA 2007, the commission of the penal acts that are enumerated thereunder must be with the purpose of (a) sowing and creating a condition of widespread and extraordinary fear and panic among the populace, (b) in order to coerce the government to give in to an unlawful demand. Under ATA 2020, these two added qualifications are broadened and extended. Under the new law, the terrorist acts must be with the purpose of (a) intimidating the general public or a segment thereof, (b) creating an atmosphere or spread a message of fear, (c) provoking or influencing by intimidation the government or any international organization, or (d) seriously destabilizing or destroying the fundamental political, economic, or social structures of the country or (e) creating a public emergency or seriously undermine public safety.

It thus can be concluded from the foregoing that the application of what constitute “terrorist acts” under ATA 2020 would hypothetically have the effect of raising the bar of the evidentiary defense that must be put up by herein respondents in facing the petition. This is a hypothetical scenario because herein respondents have been declared in default and therefore, are considered to have waived the presentation of evidence. Be that as it may, the application of the definition of “terrorist acts” under HSA 2007 to the present petition would be more favourable to the respondents, if compared to an application of the broader, more encompassing definition of “terrorist acts” under ATA 2020.

Third, the proscription process as outlined in HSA 2007 is more favourable to the respondent organizations. Under Section 17 of HSA 2007, the proscription of any organization, association or group is made upon an application by the Department of Justice (DOJ) before a competent Regional Trial Court (RTC) with notice and opportunity to be heard given to the respondent organization. The process necessitates a full blown trial with the parties giving evidence either in support of, and in opposition to, the Petition respectively, before the RTC can make a determination of whether there is sufficient ground to proscribe the respondent organizations. Otherwise said, proscription under the repealed law can only be made after a full-blown trial.

In contrast, the proscription process under ATA 2020 while relatively more expeditious for the State, is more disadvantageous to a respondent. Under its Section 26, the DOJ, with the authority of the Anti-Terrorism Council (ATA) and upon the recommendation of the National Intelligence and Coordinating Agency (NICA), can obtain a preliminary order of proscription of a suspected terrorist organization, association or group by applying with the authorizing division of the Court of Appeals (CA), with due notice and opportunity to be heard given to the respondents. The application is filed with an urgent prayer for the issuance of a preliminary order or proscription. Under Section 27 of ATA 2020, the CA can issue a preliminary order of proscription within 72 hours from filing upon a finding of “probable cause” and on the basis of a verified petition that is sufficient in form and substance. The issuance of the preliminary order of proscription already puts in motion several remedies for the petitioner. These are however, without prejudice to the conduct of continuous hearings to be completed within 6 months, in order to determine whether the preliminary order of proscription (if any is issued) should be made permanent or lifted, or, in the event there is no preliminary order of proscription, whether one should be issued. Succinctly put, the proscription process under HSA 2007 is more favourable to respondents and allows them wider berth to disprove the petition for proscription if compared to the proscription process under the ATA 2020.

In sum, an application of ATA 2020 to the present petition may amount to a violation of due process as it would make a determination of the merits of the petition for proscription filed under a repealed law (HSA 2007) by utilizing definitions and processes provided under the new law (ATA 2020). On this basis,

the Court resolves to apply the definitions of “terrorism”, “terrorist acts” and “terrorist organizations under HSA 2007 to the present petition (*People v. Concepcion*, 44 Phil. 126, 132 (1922) citing *US v. Cuna*, 12 Phil. 241 (1908), *Ong Chang Wing and Kwong Fok v. United States*, 40 Phil. 1046 (1910), 218 US 272 (1910), and *People v. Concepcion*, 43 Phil. 653 (1922)).

While HSA 2007 is essentially a Penal Law, the “proscription” proceeding thereunder, is a special judicial proceeding.

This brings us to the next query – Can the instant petition for proscription filed under HSA 2007 be characterized as a “pending action” relative to the implementation of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", referred to in the savings clause of ATA 2020? What is the nature of a petition for proscription under HSA 2007?

As we have previously stated, HSA 2007 easily partakes the nature of a penal law. In *Southern Hemisphere Engagement Network, Inc., on behalf of the South –South Network (SSN) for Non-State Armed Group Engagement, et. al., vs. Anti-Terrorism Council, et. al. supra.*, the Supreme Court has classified R.A. 9372 or HSA 2007 as a penal statute. Be that as it may, the provision for proscription found in Section 17 of HSA 2007 is not a penal provision. A scrutiny of HSA 2007 reveals that there is no criminal liability for any person who is found to be a member of a proscribed terrorist group. The only effect of proscription to a group adjudged to be a terrorist group, association or organization under HSA of 2007 is that it authorizes the justices of the CA designated as a special court to handle anti-terrorism cases, upon an *ex parte* application of a police or of a law enforcement official who has been duly authorized in writing to file such *ex parte* application by the Anti-Terrorism Council, after satisfying themselves of the existence of probable cause in a hearing called for that purpose, to authorize in writing the applicant to: (a) examine, or cause the examination of, the deposits, placements, trust accounts, assets and records in a bank or financial institution; and (b) gather or cause the gathering of any relevant information about such deposits, placements, trust accounts, assets, and records from a bank or financial institution. The bank or financial institution concerned shall not refuse to allow such examination or to provide the desired information, when so ordered by and served with the written order of the Court of Appeals. (*Sections 27 and 28, HSA 2007*).

In comparison, proscription under ATA 2020 while essentially also a special judicial proceeding, carries more drastic consequences. Section 10 of ATA 2020 penalizes “recruitment to a terrorist organization” with a penalty of life imprisonment without the benefit of parole and of R.A. 10592.² The same

² R.A. 10592 provides for amendments to the Revised Penal Code, particularly on -- 1) period of preventive imprisonment being deducted from term of imprisonment (*Article 29, RPC, as amended*); 2) partial extinction of criminal liability by conditional pardon, commutation of sentence and good conduct allowances (*Article 94, RPC, as amended*); 3) allowance for good conduct (*Article 97, RPC as amended*); and, 4) special time allowance for loyalty, who grants said allowance (*Articles 98, 99, RPC, as amended*).

provision also penalizes any person who shall “voluntarily and knowingly join in any organization, association, or group of persons knowing that such organization, association or group of persons is proscribed under Section 26 of the Act, or designated by the United Nations Security Council (UNSC) as a terrorist organization, or organized for the purpose of engaging in terrorism, with imprisonment of twelve (12) years.” The Supreme Court in *Calleja vs. Executive Secretary, et. al.*, (G.R. Nos. 252578, 252579, 07 December 2021) has upheld the constitutionality of said provision on the ground that it does not penalize mere or nominal membership, only membership that has a “scienter element” – where the offender voluntarily joins an organization, association, or group voluntarily despite knowing that the same is judicially proscribed or is designated by the UNSC as a terrorist group.” There is no similar provision under the HSA of 2007.

Mere membership to a proscribed terrorist organization, not being a criminal act under HSA 2007, it can be said that proscription thereunder, is not a penal proceeding but is of the nature of a special judicial proceeding, as it seeks merely to establish the status or right of a party or of a particular fact. More particularly, the DOJ, in the instant proscription proceeding, the DOJ seeks to establish the status of the respondent organizations as terrorist organizations. The instant petition thus falls within the category of an “action.” Moreover, it can be classified as a “pending” action, the Court taking on the definition of the word “pending” within the context that it is regularly used, *i.e.*, “ongoing,” or “awaiting decision.” As the records would show, when ATA 2020 takes effect on 03 July 2020, the reception of evidence in the instant Petition is still ongoing. In sum, the instant action falls within the category of “pending action” that is referred to in the saving clause of ATA 2020.

The Court hereby summarizes its ruling thus far:

- 1) The enactment of ATA 2020 which repealed HSA 2007 does not divest this Court of jurisdiction over the instant petition on the basis of the inclusion of a saving clause in the repealing law;
- 2) The Court, particularly in the determination of whether the alleged acts of herein respondent organizations can be characterized as “terrorist acts” the commission of which will qualify said organizations as “terrorist groups” shall utilize the definitions of “terrorist acts” and “terrorist groups” contained in HSA 2007.
- 3) The Court adopts the procedure for proscription as provided in HSA 2007.

This action taken by this Court is but consistent with the principle that “the jurisdiction of a court is generally determined by the statute in force at the commencement of the action unless such statute provides for its retroactive application. Once the jurisdiction of a court attaches, it continues until the case is finally terminated. The trial court cannot be ousted therefrom by subsequent happenings or events although of a character that would have prevented jurisdiction from attaching in the first instance” (*Baritua v. Mercader, G.R. No. 135808, October 6, 2008*).

Succinctly put, this Court has the legal mandate – both in substance and procedure – to rule on the Petition.

The Effect of Proscription under HSA 2007

If this Court should grant the Petition and the respondent organizations are proscribed as terrorist organizations under HSA 2007, what is the effect of said proscription? Will the outcome be as as provided in the already-repealed HSA 2007; or, will it be as provided, under ATA 2020?

On this point, the Court takes the view of the *amicus curiae*, the Philippine Bar Association – while the repeal of HSA 2007 results to a repeal of all of its provisions including those that provide for the consequences of proscription, particularly, the commencement of punitive actions against proscribed terrorist groups, *i.e.*, – an application for surveillance with the Court of Appeals (*Sec. 7*); application for examination of bank accounts with the Court of Appeals (*Sections 27 and 28*); and, sequestration and freezing of assets (*Section 39*), it does not bring with it the repeal of a related law, R.A. 10168 or the “Terrorism Financing Prevention and Suppression Act (“TFPSA”).

Section 3 (e)(2) of the TFPSA defines “designated persons” to include “any person, organization, association, or group of persons who are proscribed as terrorist groups under the HSA 2007 or those who are subject to seizure and sequestration under Section 39 of the HSA of 2007. Construing the provisions of the two laws together, it follows that any organization proscribed under Section 17 of the HSA is also considered a “designated” person or group under the TFPSA. The TFPSA provides for the following consequences to an organization proscribed under the HSA 2007, *viz.*,

1. Persons who deal directly or indirectly with such groups or make available to them property, funds or financial services are penalized (*Section 8, TFPSA*);
2. The Anti-Money Laundering Council (AMLC) is authorized to freeze the funds or property of such designated organization in compliance with the United Nations Security Council (UNSC); and,
3. Any attempted transaction made by designated person is considered a suspicious transaction that must be reported by bank clearance companies, securities dealers and other similar entities under Section 9(c) of R.A. 9160 (*Rule 3, a.15*).

The *amicus curiae* however, is careful to distinguish between the effects of proscription under HSA 2007 which brings with it the consequent designation under TFPSA on one hand, and of designation under ATA 2020. For one, an application for surveillance may be applied before the Court of Appeals with respect to communication between two members of the same proscribed organization. There is no such restriction with respect to a similar application filed under the Section 25 of the ATA. In the latter, there is no requirement that the communication sought to be surveilled be between members of a designated organization.

Be that as it may, these distinctions may be more academic than practical. On 05 December 2017, then President Rodrigo R. Duterte has issued Proclamation No. 374, “Declaring the Communist Party of the Philippines (CPP) - New People’s Army (NPA) as a terrorist organization under R.A. 10168. In the “whereas clauses” of the same proclamation, it is mentioned that the United States as early as 09 August 2002 has already declared respondent organizations as terrorist organizations. In making said proclamation, the President automatically places the CPP-NPA within the purview of the TFP SA, making its funds or property subject to “freezing” and “forfeiture.”

Proscription is different from Designation

President Duterte’s designation of the respondents CPP-NPA as terrorist organizations does not render moot the instant proscription proceedings; “proscription” and “designation” being two distinct processes. Designation is an administrative act of the Executive branch through the Anti-Terrorism Council (ATC), while proscription is judicial proceeding before the Regional Trial Court (RTC) (under the now-repealed Human Security Act of 2007) or before the Court of Appeals (CA) (under the Anti-Terrorism Act of 2020). In proscription proceedings, the burden of proof lies with the Department of Justice (DOJ) to prove that a group of persons, association or organization is organized for the purpose of committing terrorism, or is committing terrorist acts. Just like any judicial proceeding, the respondent terrorist organization is accorded due process of law (*Opinion, Senator Ping Lacson, on Allegations of Abuse by the President of the Terrorism Law, More at: <https://pinglacson.net/2020/07/10/on-allegations-of-abuse-by-the-president-of-the-anti-terrorism-law/>, July 10, 2020*).

Unlike the present ATA 2020, HSA 2007 does not provide for any authority to “designate” a group as a terrorist group, association or organization. The process provided thereunder, is limited to judicial proscription. The authority to designate is first mentioned in R.A. 10168 or the TFP SA which provides that the Anti-Terrorism Council (ATC) can automatically adopt the designation of terrorist group made by the United Nations Security Council (UNSC). The ATA 2020 further outlines the three different ways “designation” can be made – 1) by the ATC automatically adopting the UNSC consolidated list of designated individuals, group of persons, organizations, or associations designated and/or identified as terrorist, one who finances terrorism, or a terrorist organization or group; 2) by the ATC making the designation following the request by other jurisdictions or supra natural jurisdictions after a determination that the proposed designee meets the criteria for designation of the UNSCR No. 1373; and, 3) by the ATC making the designation at its own instance, upon a finding of probable cause that the individual, groups of persons, organization, or association has committed or attempted to commit or conspire in the commission of the acts defined under Sections 4 to 12 of the Act.

Designation however, does not preclude any petition for proscription before the courts. Section 26 of ATA 2020 is unequivocal – “The designation

shall be without prejudice to the judicial proscription of terrorist organizations, associations or groups of persons under Section 26 of the Act.” In *Calleja*, the Supreme Court, referring to proscription under Section 26 of ATA 2020, (but which pronouncement may also be applied to proscriptions in general, including proscription under HSA 2007), is unanimous in stating that proscription being essentially judicial in nature, is subject to various judicial processes. It is not unconstitutional, the presumption being that a judicial process would lessen, if not totally eliminate, the arbitrary or erroneous proscription of organizations, associations, or group of persons as terrorists.

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

II. The Petition

The instant Petition is filed by the Department of Justice (DOJ) through Deputy State Prosecutor Peter L. Ong.³ Prosecutor Ong is likewise the chairman of the Task Force on Counter-Terrorism Including Terrorism Financing and Local Insurgencies.

In his testimony, Prosecutor Ong outlines to the Court the preparation he has undertaken prior to filing the Petition – the gathering and collating of evidence in order to marshal a strong case against herein respondent organizations. His preparation of the Petition was made with the following considerations in mind – *first*, both the United States through its Department of State and the European Union (EU) have included the CPP-NPA and Jose Maria Sison among the list of terrorist persons, groups and entities.⁴ New Zealand has followed suit and has classified the CPP-NPA as foreign terrorist organizations pursuant to UNSC Resolution 1373.⁵ In the course of his research, Ong has secured from the Armed Forces of the Philippines (AFP) the *Sinumpaang Salaysay* of Ruben Guevarra y Bautista dated 18 January 2003 (*Exhibit N to N-19*), which has led him to the following documents and materials:

³ The first Petition was filed on 21 February 2018, the 2nd Amended Petition on 03 January 2019 and the 3rd Amended Petition on 14 June 2019.

⁴ This is evidenced by Public Notice 4094 published in the US Federal Register, Volume 67, No. 154, August 9, 2002 (*Exhibit G-2*); Public Notice 9768 published in the US Federal Register, Volume 81, No. 203, October 20, 2016 (*Exhibit G-3*); and Diplomatic Note No. 0032 (*Exhibit G-1*). *EU’s Common Position 2009/468/CFSP* issued on June 15, 2009.

The designation by the EU is also evidenced by EU’s Council Decision (CFSP) 2017/1426 dated August 4, 2017 which also included CPP-NPA among its list of terrorist groups and persons (*Exhibit H*). These documents were authenticated by the Chief State Counsel, pursuant to a written request (*Exhibits I-1 to I-10*)

⁵ (*Exhibits K and K-1*)

- a. The “Kongreso ng Muling Pagbuo ng Partido Komunista ng Pilipinas” (the “First Great Rectification Movement”) detailing how the CPP is formed by Jose Maria Sison;
- b. The Plaza Miranda Bombing on August 21, 1971, the handiwork of the respondent organizations as discussed by Victor Corpuz in the YouTube video entitled “Victor Corpuz – Plaza Miranda Bombing” (*Exhibit W-*) and a television documentary entitled “I-Witness: Ang Pagbabalik sa Karagatan, dokumentaryo ni Howie Severino” (*Exhibit W-2*). Ong notes that the statements of Victor Corpuz in the video coincides with most of the allegations in the affidavit executed by Ruben Guevarra y Bautista;
- c. Books authored by Jose Maria Sison, chairman of the CPP-NPA-NDF: “Building Strength through Struggle (2013); Foundation for Resuming the Philippine Revolution” (2013); and, “Defeating Revisionism, Reformism and Opportunism (2013);

Other books – “Subversive Lives – A Family Memoir of the Marcos Years,” 2012 by Susan F. Quimpo and Nathan Gilbert Quimpo; “To Suffer Thy Comrades: How the Revolution Decimated its Own” by Robert Francis Garcia (2001); and “Silent War”, by Victor N. Corpus (1989).

According to Ong, he has cited portions of the foregoing books in the present Petition.⁶

Ong has likewise gathered information and evidence of “terrorist activities” committed by respondent organizations in different parts of the country. The CPP-NPA’s Anti-Infiltration Campaign known as Operation VD at Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte, are proved by the testimonies of Zacarias Piedad Tudas, Floro Tanaid y Manla, Numeriano Beringuel y Batas and Glicerio Roluna y Senones as in their respective sworn statements which they have, thereafter, identified in court.⁷

Deputy State Prosecutor Peter Ong is also the prosecutor in Criminal Case No. 1581, the criminal cases involving the mass murders at Caulisihan, Inopacan, Leyte originally pending before the Regional Trial Court (RTC) Branch 18 of Hilongos, Leyte and which, after a change of venue, are re-docketed as Criminal Case No. 08-262163 before RTC Branch 32 of Manila. The Informations are later amended and re-docketed as Criminal Cases Nos. 14-306533 to 14-306546.⁸

Ong recounts that during the pendency of the criminal cases before RTC Manila (Branch 32), the accused, who are officers and members of the CPP-NPA have applied for bail, “on the pretext of attending the peace negotiations” with the government. He would have wanted to object to the application for bail but is

⁶ Particular portions of the referred books were indicated by the witness in pages 9 to 12 of his judicial affidavit dated 12 October 2020.

⁷ (*Gisumpaan nga Gipanulti or Gisumpaan nga Asoy*) of Zacarias Piedad Tudas dated September 14, 2006 (*Exhibits X to X-7*), Floro Tanaid y Manla dated September 4, 2006 (*Exhibits Z to Z-2*), Numeriano Beringuel y Batas, dated October 2006 (*Exhibits AA to AA-10*) and Glicerio Roluna y Senones dated 2006 (*Exhibits CC to CC-11*).

⁸ The pendency of these criminal cases are evidenced by the pertinent criminal Informations (*Exhibits FF to UU*).

prevailed upon by DOJ Secretary Vitaliano N. Aguirre II who, in a Memorandum with date August 9, 2016 (*Exhibit M to M-6*) directed the prosecutors to refrain from objecting to the bail application of high-ranking CPP officials as part of the confidence-building measures adopted by the government prior to the peace negotiations with the CPP-NPA-NDF. As Ong points out, high-ranking CPP officials have always used the peace negotiations to secure their release from detention.

State Prosecutor Ong is also previously assigned to investigate the murders of RJ Romulo “Rolly” Kintanar and Arturo “Art” Tabara, in the course of which, he learns of the internal debates within the CPP-NPA which have led to the anti-infiltration campaign and purging operations. Known as “The Second Great Rectification Movement”, the movement seeks to review and rectify the errors that have caused havoc to the revolutionary movement. The split in the movement, resulting from ideological differences has in turn led to the killing of members of the respondent organizations by their own comrades. Prosecutor Ong has gathered the affidavits executed by former members and widows of slain members of the CPP-NPA, particularly Veronica P. Tabara, Gloria Asuncion Joson-Kintanar and Rafael Cruz y Glemao who have given first hand accounts regarding this dark chapter in the respondent organizations’ history.⁹

The tactical offensives of the CPP-NPA as mentioned in the Petition are comprised of separate incidents of ambush which have been carried out in different parts of the country from March to December of 2017. Documentary evidence further corroborating said incidents are gathered and collated by the Philippine National Police (PNP) personnel.¹⁰

A scrutiny of the allegations in the Petition as well as evidence presented by the petitioner during trial, show that the petitioner’s prayer for proscription of the CPP-NPA as a terrorist organization is based on the following allegations:

1. That the ideology of the CPP-NPA sanction violence as a means to achieve their goal of overthrowing the duly-constituted authorities or the government;
2. That an internal split in the CPP-NPA in the 1980s has led to a faction which employs atrocities that have caused deaths to their very own members;
3. That the CPP-NPA have committed atrocities against innocent civilians; and,
4. That the CPP-NPA have committed atrocities against police and military personnel.

Ong further points out that during peace negotiations under the Duterte administration, CPP-NPA continue with their tactical offensive against the Philippine government. Around this time, Jose Maria Sison is reported to have

⁹ The foregoing executed the following sworn statements – Sworn Statement of Veronica P. Tabara on October 9, 2006 (*Exhibits YY to YY-2*); Complaint Affidavit of Veronica P. Tabara dated January 20, 2006 (*Exhibits ZZ and ZZ-1*); Supplemental Affidavit executed by Gloria Asuncion Joson-Kintanar and Veronica Tabara dated May 23, 2006 (*Exhibits AAA to AAA-1*); and, the affidavit executed by Rafael Cruz y Glemao, dated May 19, 2006, (*Exhibits DDD to DDD-13*).

¹⁰ These incidents are enumerated in pages 15 to 16 of State Prosecutor Peter Ong’s affidavit dated October 12, 2020.

directed the NPA “to kill one soldier a day”¹¹ According to Ong, this directive is part of the CPP-NPA’s larger strategy to force the government to revive the peace talks, and hopefully, be able to “utilize” the “peaceful period” to re-group, launch further attacks and demand for the release of its leaders who are in prison. Pointedly, this is an indicator of the CPP-NPA’s lack of sincerity in its peace negotiation with the Philippine government. This lack of sincerity and the continued commission of terrorist acts on the part of the CPP-NPA are the bases of Presidential Proclamation No. 360 (*Exhibits D, D-1*) in which then President Rodrigo R. Duterte terminates the government’s peace negotiations with the respondent organizations. A month later, on 05 December 2017, President Duterte issues Proclamation No. 374 (*Exhibits E, E-1*) designating the CPP-NPA as terrorist organizations.

III. The Anti-Terrorism Law¹²

The commission of violent acts in order to defend a greater good has always existed throughout history. Examples range from tyrannicide (killing of tyrants) in the ancient world, regicide (killing of kings) during the Roman Age and the Jewish rebellion against Roman occupation in medieval Middle East. It is during the French Revolution that the word “terrorism” is coined in its modern context by British statesman and philosopher Edmund Burke in order to describe the *regime de la terreur* (regime of terror) from 1793 to 1794) of the radical Jacobin-dominated government. The French revolution is an example of state terrorism to further the goals of a revolutionary ideology. Enemies of the republic are arrested, put on trial before a revolutionary tribunal and those who are found to be enemies of the Republic are beheaded (*Gus Martin, “Understanding Terrorism, Challenges, Perspectives and Issues”, 4th Edition, Sage Publications, Inc., (2013), pp. 17-19*).

The more recent 11 September 2001 series of terrorist attacks on the US homeland is the turning point in the history of political violence. The attacks are characterized by new information technologies and the internet which create unprecedented opportunities. Terrorist groups and violent extremists are now adept at bringing their wars into the homes of literally hundreds of millions of people. Those specializing in suicide bombings, car bombs or mass-casualty attacks correctly calculate that carefully selected targets will attract the attention of a global audience. The war on terrorism, launched in the aftermath of the attacks of 11 September 2001, heralds a new resolve to end terrorism (*Ibid., pp. 21- 22*).

¹¹ This directive is contained in the CPP-NPA’s official publication – “*Ang Bayan*” article. “Unite the Filipino People to Resist and Overthrow the Fascist US-Duterte Regime” (*December 26, 2017 issue*) and “Isolate Completely and Overthrow the Oppressive US-Duterte Regime” (*January 7, 2018 issue*) Exhibits W; W-4 to W-10; W-11 – to W-17; GGGGGG to GGGGGG-1) This declaration was also contained in an article from the Philippine Daily Inquirer dated February 5, 2015.

¹² A significant part of this portion is culled from *Gus Martin, “Understanding Terrorism, Challenges, Perspectives and Issues”, 4th Edition, Sage Publications, Inc., (2013)*.

Policy-makers and experts are not only faced with the challenge of a proper response to terrorist acts; they also have yet to unanimously agree on a definition of “terrorism.” As they have discovered, definitions very much depend on which side of the fence one is sitting on. “Most, if not all, nations promote an ideological doctrine to legitimize the power of the state and to convince the people that their systems of belief are worthy of loyalty, sacrifice and (when necessary) violent defense. Conversely, when a group of people perceive that an alternate ideology or condition should be promoted, revolutionary violence may occur against the defenders of the established rival order. In neither case would those who commit acts of political violence consider themselves to be unjustified in their actions, and they certainly would not label themselves as terrorists.” (*Ibid.*, p. 25).

Classifications are a complicated legal, political and security exercise. One’s designated status may unleash the full extent of state resources to quell an activity defined as “terrorist activity.” It also comes with consequences. A classification may determine the application of “rights” which may be ordinarily afforded individuals under similar situations. For example, under the Geneva Convention, those who are designated as “prisoners of war” and who are brought to trial must be afforded the same rights in the same courts as would soldiers from the country holding them prisoner. In the United States however, suspected terrorists are not designated as prisoners of war, the rationale being that they are not soldiers fighting for a sovereign nation and are therefore ineligible for prisoner-of-war status (*Ibid.*, p. 39).

Be that as it may, the following are common features of “terrorist acts” that stand out from among different formal definitions adopted by different States, *viz.*,

- The use of illegal force
- Sub national actors
- Unconventional methods
- Political methods
- Attacks against soft civilian and passive military targets; and,
- Acts aimed at purposely affecting an audience (*Ibid.*, p. 37).

Terrorism can be of many types depending on the motivations behind it – 1) “state terrorism” is committed by governments against its perceived enemies may they be internal or external; 2) “dissident terrorism” is committed by non-state movements or groups against governments, ethno-national groups, religious groups and other perceived enemies; 3) “religious terrorism” is motivated by an absolute belief that an otherworldly power has sanctioned and commanded the application of terrorist violence for the greater glory of the faith; and, 4) “criminal terrorism” is motivated by sheer profit or some amalgam of profit or politics (*Ibid.*, p. 40).

**R.A. 9372,
“An Act to Secure the State and Protect our People from Terrorism,”
otherwise known as the Human Security Act of 2007
 (“hereafter HSA 2007).**

HSA 2007 is enacted on 24 July 2006 on the basis of a declared policy of the State to protect life, liberty, and property from acts of terrorism, to condemn terrorism as inimical and dangerous to national security and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations. In its implementation, the State undertakes to “uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution” even as it upholds the constitutionally-recognized powers of the executive branch of the government. It is to be understood, however, that the exercise of the constitutionally-recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times.

HSA 2007 is meant to help the government and law enforcement agencies address the threat of terrorism to the security of the country. Former President Gloria Macapagal-Arroyo describes the measure as a “legal muscle to help end the paralysis of fear, to empower with a law that identifies terrorism and penalizes it, a law that preserves and protects freedom.” However, HSA of 2007, according to critics, has never been fully utilized, having been used only twice since its enactment – the first time to proscribe the Abu Sayaff Group (ASG) as a terrorist organization and the second, in a petition to declare a terrorist a person with suspected involvement in the Marawi siege. The latter incident however, is eventually settled out of court.

Much of the criticism of HSA of 2007 comes from the implementing agencies. These criticisms center on provisions that allegedly make said law legally and practically difficult to apply: “The HSA, with good intentions, has provided numerous safeguards for the protection of the people’s constitutional rights and fundamental liberties. ... Wittingly or unwittingly, however, it has tilted the scales in favour of one side, disturbing the balance. ... While commendable for extending due regard to human rights, much is left to be desired as to its efficacy as a counter-terror measure.” Section 18 provides for only three days’ detention period without a judicial warrant of arrest of suspected terrorists. While this provision may be viewed from a human rights perspective as protection for the rights of individuals, law enforcement officers find three days too short, especially when gathering evidence in a case build-up against suspected terrorists.

HSA 2007 also provides that any person accused and charged with terrorism who is later acquitted by the court shall be entitled to Php 500,000.00 in damages for each day that he/she has been detained or deprived of liberty or arrested without a warrant as a result of such accusation. Damages are automatically charged against the appropriations of the police agency or the Anti-

Terrorism Council. A person who is acquitted of terrorism charges is also entitled to Php 500,000.00 in liquidated damages for each day in which his/ her properties, assets, or funds are seized as terrorist assets, the amount of damages to be taken from appropriations of the police or law enforcement agency that has caused the filing of the charges against him/her. While these provisions serve as “protective measures” against malicious prosecution, they have also deterred law enforcement authorities from enforcing the law. For this reason, the police and the military have never attempted to use the law for fear that they may be penalized with hefty fines (*“Counterterrorism in the Philippines: Review of Key Issues”*, Ronald U. Mendoza, Ph.D., RAdm. Rommel Jude G. Ong PN (Ret.), Atty. Dion Lorenz L. Romano, and Bernadette Chloe P. Torno, *Perspectives on Terrorism*, Vol. 15, Issue 1, February 2021).

HSA 2007’s seeming bias for constitutional rights and fundamental liberties is apparently insufficient to put to rest the question of its constitutionality. Its enactment is followed by the filing of several petitions before the Supreme Court, assailing its constitutionality. In the case of *Southern Hemisphere Engagement Network, Inc., on behalf of the South –South Network (SSN) for Non-State Armed Group Engagement, et. al., vs. Anti-Terrorism Council, et. al.*, G.R. No. 178552, October 5, 2010, the Supreme Court does not squarely rule on issues of constitutionality, and instead dismisses the petitions on other grounds, among which are – the lack of *locus standi* on the part of the petitioners and the absence of an actual controversy, or an existing case or controversy that is appropriate or ripe for determination. More specifically, the Supreme Court notes the absence of any of the predicate crimes actually committed which will trigger the operation of the key qualifying phrases in the other elements of the crime, including the “coercion of the government” to accede to an “unlawful demand.” As so stated by the Supreme Court – “Petitioners have established neither an actual charge nor a credible threat of prosecution under R.A. 9372. Even a limited vagueness analysis of the assailed definition of “terrorism” is thus legally impermissible.” The Court then reminds litigants that judicial power neither contemplates speculative counselling on a statute’s future effect on hypothetical scenarios nor allows the courts to be used as an extension of a failed legislative lobbying in Congress. It cannot act on issues that are merely conjectural or anticipatory, lest the decision will amount to a mere advisory opinion (*Southern Hemisphere Engagement Network, Inc., on behalf of the South –South Network (SSN) for Non-State Armed Group Engagement, et. al., vs. Anti-Terrorism Council, et. al., Ibid.*).

At the time of the writing of the Decision in 2010, the Supreme Court notes that the United States of America (US) and the European Union (EU) have already classified the CPP-NPA, together with the *Abu Sayyaf* Group as foreign terrorist organizations. The Court further takes note of the joint statement of Executive Secretary Eduardo Ermita and Justice Secretary Raul Gonzales that the Arroyo Administration would adopt the US and EU classification of the CPP and NPA as terrorist organizations. The High Court notes however, that there is

yet, (at that time), no petition before the courts or an application to declare the CPP and NPA organizations as domestic terrorist or outlawed organizations under RA 9372. (*Southern Hemisphere Engagement Network, Inc., on behalf of the South –South Network (SSN) for Non-State Armed Group Engagement, et. al., vs. Anti-Terrorism Council, et. al., Ibid*).

With the end of providing law enforcers with a stronger legal measure to address acts of terrorism, the Senate approved on 26 February 2020, on third and final reading Senate Bill No. 1083 which, on 03 July 2020, President Duterte signs into law. Officially designated as Republic Act No. 11479, the “Anti-Terrorism Act of 2020”, effectively replaces the HSA of 2007 as the country’s principal law against terrorism. It rewrites some of its provisions, despite opposition from various sectors and growing concerns over some of its provisions.

IV. History of the CPP-NPA: A Background

Communism is an ideology that starts with Karl Marx who, together with his associate, Friedrich Engels, argues that human progress and evolution are the result of historical conflicts and revolutions. Each era is based on the working class’ unequal relationship to the means of production and the ruling class’ enjoyment of the fruits of the working class’ labor. Each era is characterized by the ruling class maintaining the *status quo* and the laboring group challenging the same through agitation and revolution. This dynamic result in a socio-economic synthesis that creates new relationships with the means of production and drives the evolution of human society to the next era.

“Class struggle” is more than a competition of people belonging to different job incomes. One’s class is determined by his or her relationship to the means of production. Wage earners are the “proletariat” or the exploited labor class. A small-time shop-owner or wage-owning manager is the “bourgeoisie” or the middle class co-opted by the ruling class which owns and controls the means of production. The political power of each group as well as the degree of exploitation it suffers is determined by that group’s relationship to the means of production. According to Marx, the most advanced era of social evolution would be the synthesis Communist era, which would come to fruition after the industrial working class (proletariat) overthrows the capitalist system. The dictatorship of the proletariat in a communist society would usher a just and egalitarian order.

Marxist socialism, seen as both pragmatic and revolutionary, is adopted by revolutionary leaders across the 20th century, including Mao Zedong of China. Mao tweaks Marxism to suit the conditions then prevalent in China. Interestingly, while Marx champions the industrial working class and dismisses attempt to mobilize either the peasantry or the marginalized sector of society, the successful Marxist rebellions have unexpectedly occurred in pre-industrial, agrarian peasant based-societies. The Great Proletarian Cultural Revolution in China of Mao Zedong and the Chinese Communist Party Central Committee applies the

strategy of the “people’s war.” Mao Zedong, through the communist Red Army wages a “protracted people’s war” – *first*, against Chiang Kai-Shek’s nationalists; *second*, in alliance with the nationalists against the invading Japanese; and, *finally*, in driving Chiang’s forces from mainland China in 1949. The Red Army has prevailed largely due to Mao’s military-political doctrine of waging an insurgent people’s war. The strategy is simple: Indoctrinate the army. Win over the people. And, hit, run and fight forever.”

“People’s war” is “protracted warfare” (war drawn out over time) fought by an army imbued with an iron ideological will to wear down the enemy. According to Mao, the Red Army should fight a guerrilla war, with roving bands that would occasionally unite. The war is to be fought by consolidating the countryside, and then gradually moving into the towns and cities. Red army units would avoid conventional battle, giving ground before superior numbers. Space would be traded for time, and battle would be joined only when the Red Army is tactically superior at a given moment. Emphasis is on avoidance and retreat. In a People’s war, assassinations are perfectly acceptable, and targets included soldiers, government administrators, and civilian collaborators. Government-sponsored programs and events, no matter how beneficial they might be to the people – are to be violently disrupted to show the government’s weaknesses. A successful people’s war requires the cooperation and participation of the people; hence, soldiers must win their loyalty by treating them correctly (*Gus Martin, “Understanding Terrorism, Challenges, Perspectives and Issues”, 4th Edition, Sage Publications, Inc., (2013), pp. 17-19).*

In explaining the concepts of **revolutionary dual tactics** and the strategy of **protracted people’s war** as applied by Mao Zedong in China as a means to seize control of the government and winning the first (1st) phase of the revolution, witness Noel Minoto Legaspi cites Jose Maria Sison’s *a.k.a. Amado Guerrero’s* disquisition of the two concepts in “*Defeating Revisionism, Reformism & Opportunism, 2013*”, *Jose Ma. Sison [Amado Guerrero], pages 124-125, Exhibit Q; “Building Strength through Struggle, 2013”, (Jose Ma. Sison [Amado Guerrero], page 355, Exhibit O-3,)*, viz.,

“Chairman Mao’s theory of a people’s war is summed up from twenty-two continuous years of people’s war in a vast country like China. x x x The protraction in time and the vastness in scale of this people’s war, contending with the most powerful imperialist and puppet armies and encompassing the widest yet the most particular circumstances, are unprecedented in the entire history of mankind and of the international communist movement. x x x Most of those waging armed struggle in the world’s countryside are applying Chairman Mao’s strategic line of encircling the cities from the countryside. x x x The weakest links of imperialist power are found in the countryside of the world just as they are also to be found in the countryside of a semi colonial and semi feudal country. This countryside provides the people with a vastly greater area for maneuver. They cannot be effectively occupied by the enemy forces, as thoroughly as they can the cities, especially in the stage of strategic

offensive. Until the situation is ripe for their seizure, the cities are the well-secured centers of the political and economic power of the enemy”.

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“Our strategic line in our people’s war is to encircle the cities from the countryside until such **time** that we become capable of moving on the cities from stable revolutionary bases in the countryside. For a **long time**, we have to develop guerrilla warfare on a nationwide scale so as to convert into our advantage the disadvantage of fighting in a small archipelagic country, whose countryside is so vast in relation to the cities but fragmented into so many islands.”

The concept of a “protracted people’s war” is also found in the 2016 Constitution and Program of the CPP (*Exhibit HHHHHH-74*):

“In the course of the protracted people’s war, the working class and peasantry under the proletarian leadership and with the assistance of the New People’s Army, establish organs of political power to form the armed independent regime or people’s revolutionary government in the countryside and elsewhere possible. The people thereby learn to govern themselves, defend and advance their national independence and democratic gains and manage their relations with all friends and sympathizers. The people’s revolutionary government is the preparatory government of the People’s Democratic Republic of the Philippines.”

“The Communist Party of the Philippines had its beginnings in November of 1925 when the small Partido Obrero, headed by Manila-based labour leaders, repudiated reformism and called upon Filipino workers to “take economic and political power from the capitalist class and to abolish all class divisions and class rule. It was in 1930 when the Partido Komunista ng Pilipinas (PKP) was founded (*Norman Lorimer, “Philippine Communism – A Historical Overview, Journal of Contemporary Asia, Vol. 7, Issue 4, (1977).*

In "*Brief Overview of the History of the Communist Party of the Philippines on the Occasion of the 20th Anniversary of its Reestablishment*", Jose Maria Sison, chairman of the Central Committee of the CPP, under the *nome de guerre* “Armando Liwanag”, writes on 26 December 1988 — “The establishment of the Communist Party was credited to Crisanto Evangelista, the most outstanding leader of the Philippine trade union at that time. It marked the initial attempt to integrate the theory of Marxism-Leninism with the concrete conditions of the Philippines and draw the most advanced activists of the worker and peasant movement into the vanguard party of the Philippine revolution. Despite being declared illegal, the Communist Party survived. In 1937, it was legalized by the Commonwealth government as a result of the mounting popular demand for social justice, amidst worldwide depression and for a broad popular front against fascism. In 1938, the CPP merged with the Socialist Party of the Philippines (SPP) organized independently by Pedro Abad Santos. The merger placed the large worker following of the CPP in Manila and the large peasant following of the SPP in Central Luzon under one party leadership. However, the party was

penetrated by petty-bourgeoisie elements headed by the Lava brothers in Manila and the Taruc brothers in Central Luzon. During the outbreak of World War II, many of the leaders of the merged party were arrested and killed by Japanese authorities. The merged party established the People's Army Against Japan (*Hukbong Bayan Laban sa Hapon, or the Hukbalahap*). The succeeding years were characterized by the infighting of the Lava and Taruc brothers and the lack of a decisive and principled leadership, far removed from the mass movement. On 26 December 1968, the proletarian revolutionary cadres led by Amado Guerrero re-established the Communist Party of the Philippines under the guidance and theory of Marxism-Leninism and along the general line of national democratic revolution. The re-established party regarded itself as the genuine continuation of the Communist Party established in 1930; and also as one at a new and higher level of ideological and political development."

In his sworn affidavit (*Sinumpaang Salaysay, dated 15 January 2003, Exhibit N*) and oral testimony in Court, witness Ruben Bautista Guevarra who is present during the respondent organizations' establishment in 1968, and who, for the most part of these organizations' existence, is a high-ranking member with firsthand access to their inner workings, gives an overview of the beginnings of the CPP-NPA.

Guevarra traces the re-establishment of the CPP-NPA in 1968 to the failure of the old communist party to attain its objective of wresting power from the State. Jose Maria "Joma" Sison blames this failure to erroneous ideology, politics and organization under the leadership of the Lava family. From a well-off family in Northern Luzon, Sison then a student activist in Manila in the early 1960s joins the Partido Komunista ng Pilipinas (PKP). However, he soon criticizes the Lava-led PKP's abandonment of armed struggle and its shift to non-violent legal and parliamentary means in pursuing the socialist revolution. The Lava leadership thereafter expels him from the party on charges of "left adventurism" (*"Reaffirmist-Rejectionist Schism, "The Great Left Divide," Alecks P. Pabrico, The Investigative Reporting Magazine, Vol. V. No. 2, April-June 1999, <https://marxists.org/history/philippines/ra-rj/pabrico/great-left-divide.htm>*).

The Sison-initiated reform of the Communist Party of the Philippines is aimed at overthrowing the political power of the State following the Marxist-Leninist thought of China's Mao Tse Tung. The "*Kongreso ng Muling Pagbubuo ng Partido Komunista ng Pilipinas*" (Congress to Reform the Communist Party of the Philippines) on January of 1968 is held in the house of the parents of the wife of Arthur Garcia in Barrio Makuhol, Mangatarem, Pangasinan is attended by 12 persons: 1) Arthur Garcia, 2) Nilo Tayag, 3) Fernando Tayag, 4) Leoncio Co, 5) Monico Atienza, 6) Herminigildo Garcia IV, 7) Manuel Collantes, 8) Renato Casipe, 9) Ibarra Tubianosa; 10) Renato Pangilinan; and, 11) witness Ruben Bautista Guevarra. Another member, Jose Luneta is in China at that time.

Apart from studying and strengthening the basic documents of the CPP, the Congress is further aimed at:

- “a. Correcting the mistakes and to re-form the Communist Party such that the CPP will align itself to Marxist-Leninist-Maoist thought. This calls for an examination of the history of the first party and pointing out its mistakes and weaknesses which hinder it from achieving its purpose.
- “b. Arriving at a program for a democratic revolution of the Philippine State. Discussion is centered on the basic colonial and feudal conditions of the Philippine State and the particular programs of the revolution which are aimed at:
 - i. crushing the forces of oppression of imperialism and feudalism in the country;
 - ii. establishing a democratic state and a government with a united front
 - iii. struggling for national unity and democratic rights
 - iv. following the principle of democratic centralism

Also tackled during the Congress were the following aspects of the revolution, *viz.*,

- v. people’s army for liberation
- vi. problem with the land
- vii. problem in the industries
- viii. problem in culture, education and intellectual
- ix. problem of cultural minorities’
- ix. problem with foreign policy, and problem with particular programs of the CPP in relation to the fields of politics, economy, military, culture, and foreign policy.

During the Congress, the Constitution of the Communist Party of the Philippines consisting of ten (10) articles¹³ was drafted, deliberated on, and threshed out. Also constituted during the Congress of 1968 is the Central Committee comprised of the 12 persons present, including witness Guevarra himself. Elected were the members of the Political Bureau or the “Politburo”; the Executive Committee; the National Secretariat¹⁴, and the leadership of the Central Committee. Sison was elected the chairman of the Central Committee and of the Military Commission and as such, was regarded the direct head and mover of the NPA and the NDF. Guevarra was elected as a member of the Military Commission, a special organ of the Central Committee which sets the

¹³ The ten articles of the Constitution of the CCP pertain to the name, flag and national anthem, and the oath of the members of the CPP (Article I); guidelines on governing membership to the CPP (Article II); rights and obligations of the members of the CPP (Article III); framework and history of the CPP (Article IV); central organization of the CPP (Article V); territorial organization of the CPP (Article VI); basic organization of the CPP (Article VII); party groups of mass organizations (Article VIII); connection between the CPP and the NPA (Article IX); and, Finances and Funds of the Organization (Article X); and amended and basic conditions.

¹⁴ The members of the Central Committee were all of the 12 who were present there, including witness Ruben Guevarra. Elected as members of the Political Bureau of the Politburo were Sison, Arthur Garcia, Nilo and Fernando Tayag, Monico Atienza, Herminigildo Garcia, Renato Casipe and Ibarra Tubianosa. Elected members of the Executive Committee were Sison, Garcia, Nilo and Fernando Tayag, and Monico Atienza. Comprising the National Secretariat were Nilo and Fernando Tayag and Monico Atienza.

overall work. Later, the Commission would directly govern the New People's Army (NPA) which was established the following year.

According to Guevarra, while the Congress was actually held on January of 1968, it was made to officially appear that the founding anniversary of the CPP fell on December 26 of 1968, to honor Mao Tse Tung, whose birthday was celebrated on said date. It was also during the same Congress that they adopted their respective "*nom de guerre*" – Jose Maria Sison took the *nom de guerre* "Amado Guerrero by which he was known until his arrest in 1977. Upon his release in 1987 during the presidency of Corazon C. Aquino, Sison took over the position of chairman of the CPP under the *nom de guerre* "Amando Liwanag." Arthur Garcia chose the *nome de guerre* "Estrella Del Sur" and the witness Ruben Guevarra, "Lilia Tambunting."

Approximately a year later, on 29 March 1969, the CPP joins forces with the different commanders of the "*Hukbong Mapagpalaya ng Bayan*" which becomes the New People's Army (NPA) under the leadership of the CPP.

Guevarra still clearly recalled what transpired on the day when they organized the NPA – the members of the Central Committee were gathered inside a hut with walls made of wooden planks and roof of galvanized iron. The hut was located beside an irrigation, about half a kilometer from the barrio proper. Among those present were Jose Maria Sison, Arthur Garcia, Nilo Tayag, Monico Atienza, Herminigildo Garcia IV, Fernando Tayag, Manuel Collantes, Ibarra Tubianosa, Renato Casipe, Renato Pangilinan, Leoncio Co, Kumander Dante, Kumander Eddie, Commander Joe, Kumander Juaning, Kumander Goody, Kumander Panchito, Kumander Felman, Ka Antong and Ka Oscar.

After forming the NPA, they launched the political and military training of those who would comprise the *Sandatahang Yunit Pampropaganda* (SYP) or the armed propaganda. The first batch was supervised by Guevarra himself as political instructor and Kumander Goody as the military instructor and camp commander. Other training batches followed. Training was conducted in the different mountainous areas of Capas, Tarlac and in the facilities of the "*Voice of America*." Training usually took 2 to 3 weeks, with emphasis on tactics of guerrilla warfare, and means to organize the citizens. The curriculum of study was comprised of quotations of Chairman Mao Tse Tung and the "five gold beams."

The NDF, on the other hand, is the machinery of the CPP which aims to unite and encourage all classes, sectors and strata of society and all political parties, groups, and individuals fighting against the ruling government. It aims to provide a shelter for all organizations and cadres of the party, and to shield the CPP-NPA-NDF against the attacks of the government. Explaining the inter-relationships between the CPP, the NPA, and the National Democratic Front ("NDF") Guevarra stated that the CPP is the organization which heads the NPA and the NDF

The history of the CPP-NPA can be broken down into three periods – *First*, its establishment in 1968 until the Martial Law Period which was ushered by the 1971 Plaza Miranda bombing. Martial law was declared primarily to quell the CPP-NPA. It was also during this period, characterized by repression of human rights that many moderate activists joined the underground movement. Ironically, this period of repression saw a great increase in the membership of the respondent organizations. *Second*, the period of massive “purging” which started in the 1980s was considered the period of cleansing of the ranks of the members of the respondent organizations. The arrests of leaders of the CPP had led to suspicions of infiltration among the ranks by military spies. Thousands of members who were suspected infiltrators were summarily executed and buried in mass graves. *Third*, the internal division of the CPP-NPA between the “reaffirmists” and the “rejectionists” which led to an in-fighting that ended in the execution of leaders of the “rejectionist” faction.

The internal split within the CPP was brought about, among others, by the dissolution of the Soviet Union in 1989 and the subsequent collapse of most communist party governments in Eastern Europe coupled with the onslaught of Gorbachev’s *perestroika* and *glasnost* ideas espousing “liberalism, populism and social democracy.” Armando Liwanag (Jose Maria Sison) responded to the internal debates with the Second Great Rectification Movement. During the 10th Plenum of the CPP, he called for a “reaffirmation” of the principles laid down when he re-established the CPP in 1968. The call was for a firm adherence of the theory and practice of Marxism-Leninism-Mao-Zedong Thought encapsulated in the following principles:

1. Classification of the Philippines as a semi-feudal and semi-colonial society, as opposed to being an industrialized and urbanized society;
2. Pursuit of the general line of democratic revolution by relying on the alliance of workers and peasants and winning over the urban petty bourgeoisie or the middle class
3. Recognition of the CPP as the vanguard force of the proletariat or the working class;
4. Waging the protracted people’s war (PPW), a strategy of encircling the cities from the countryside, among others.”

Members of the rejectionist faction however, who declared themselves the “democratic opposition” rejected the 10th Plenum that approved the “Reaffirm” for lack of the required quorum. A petition calling for either the reconvening of the 10th Plenum or holding a new one to discuss the “Reaffirm” signed by the 15 Central Committee members was rejected, as were calls to hold the long overdue Party Congress. Insisting that the 10th Plenum was valid, the leadership began expelling members and dissolving units identified with the rejectionist bloc. Sison charged the rejectionists as “counterrevolutionaries” with left opportunists sins such as “urban insurrectionism, military adventurism, and gangsterism – the same sins he was charged with by the Lava faction when he first led the re-establishment of the

CPP in 1968. (*"The Great Left Divide," Alecks P. Pabrico, The Investigative Reporting Magazine, Vol. V. No. 2, April-June 1999, <https://marxists.org/history/philippines/ra-rj/pabrico/great-left--divide.htm>*). The rejectionists themselves later fell into further splits, mostly personality-driven. One faction led by Popoy Lagman espoused the "counter-thesis" that viewed the crisis in the revolutionary movement as a crisis of the "Maoist tendency in the Philippines." Lagman regarded it as an aberration of real Marxism-Leninism because it overplayed the role of the peasantry and underplayed the role of the working class. Instead of a protracted people's war (PPW), it should have been a working class-based and -led insurrection strategy." Another view developed by Ricardo Reyes rejected the protracted people's war strategy in favor of a shift to a political-military combination strategy – a combination of an insurrectional approach in the urban areas and armed struggle for the countryside."

The violent deaths of leaders of these factions particularly – Arturo Tabara who once headed the NPA's hit squad who was killed in 2004, Felimon "Popoy Lagman" who once headed the Alex Boncayao Brigade who was killed in 2001, and Rolly Kintanar who once headed the NPA's general command, who was killed in 2003 – were all blamed on the CPP.

The military insists the NPA is presently in irreversible decline, with fewer than 5,000 fighters. Nonetheless, it still has supporters and is recruiting new members, securing weapons and launching ambushes across the country (*The Communist Insurgency in the Philippines: Tactics and Talks, Asia Report N°202, 14 February 2011*). It is claimed that by the end of 2010, the total number of fighters is down to 4,111 which is a drop, if one compares it to 4,702 a year before. Furthermore, three of the insurgency's 51 guerrilla fronts have been dismantled. In its 26 December 2010 statement, however, the CPP insists that the movement is stronger, not weaker, and reiterates that it is preparing to move from "strategic defensive to strategic stalemate" (*The Communist Insurgency in the Philippines: Tactics and Talks Crisis Group Asia Report N°202, 14 February 2011*).

V. Inner Workings of the CPP-NPA

A. The Constitution of the Communist Party of the Philippines

The 2016 Constitution and Program of the Communist Party of the Philippines is identified in evidence by Police Major General Alfred S. Corpus of the Directorate for Operations of the Philippine National Police, Camp Brigadier General Rafael T. Crame in Quezon City. (*Exhibits HHHHHH to HHHHHH-97*).

A perusal of the document shows that the CPP Constitution has been approved by the Second Congress of the Communist Party of the Philippines on 07 November 2016. It begins with a "Preamble" the first two sentences of which encapsulate the essence of the CPP – "The universal theory of Marxism-

Leninism-Maoism is the guide to action of the Communist Party of the Philippines. It is the supreme task of the Party to apply this theory to the concrete conditions of the Philippines and to integrate it with the concrete practice of the Philippine revolution.”

The Preamble is followed by twelve (12) Articles that comprise the body of the Constitution, *i.e.*, Name, Flag and Emblem, Anthem and Pledge (*Article I*); Membership (*Article II*); Rights and Duties of Members (*Article III*); Principle and Structure of Party Organization (*Article IV*); Central Organization (*Article V*); Territorial Organizations of the Party (*Article VI*); Basic Organization of the Party (*Article VII*); Party Groups in Mass Organizations (*Article VIII*); The Party’s Relationship with the New People’s Army (*Article IX*); The Role of the Party in the United Front (*Article X*); Party Finances and Resources (*Article XI*); and, Amendments and Extraordinary Developments (*Article XII*).

Each Article is further comprised of several sections of varying numbers and lengths.

Presumably underlining its relevance to the present Petition, Major General Corpus specifically points to Article IX of the CPP Constitution, on “**The Party’s Relationship with the New People’s Army**” which contains the following sections, *viz.*,

“**Section 1.** The Party, through its Military Commission under the Central Committee and through its cadres at every level, shall lead and command the New People’s Army and guide it in the study and practice of Marxism-Leninism-Maoism and shall develop the most advanced fighters into Party members.

“**Section 2.** The Rules of the New People’s Army shall recognize the absolute leadership of the Party and its Military Commission and shall require the assignment of political officers to every armed unit and every territorial command of the New People’s Army.

“**Section 3.** The New People’s Army shall be the main weapon of the Party in the seizure and consolidation of political power. It welds the basic alliance of the working class and the peasantry. In the countryside, it shall create the conditions for establishing the people’s democratic state by waging armed struggle, facilitating agrarian revolution and helping build organs of political power and revolutionary mass organizations.

“**Section 4.** A Party branch in every company or platoon as the case may be and a Party group in every squad shall be organized within the New People’s Army. Leading committees shall be created from the level of the branch to the highest military formation.

“**Section 5.** The New People’s Army shall develop several forms of armed forces: guerrilla units, regular mobile forces and regular forces on certain conditions. It shall also develop auxiliary and reserve forces as the people’s militia, self-defense units based on mass organizations and armed city partisans. It shall be a force for fighting, politico-military training, propaganda, cultural work and production.

“Section 6. The Party shall develop the closest ties between the army and the people, between the Party and the army and between officers and men in a proletarian revolutionary spirit.

“Section 7. The New People’s Army shall adhere strictly to the Three Main Rules of Discipline and the Eight Points of Attention:

“The Three Main Rules of Discipline are:

- 1) Obey orders in all your actions.
- 2) Do not take a single needle or piece of thread from the masses.
- 3) Turn in everything captured.

“The Eight Points of Attention are:

- 1) Speak politely.
- 2) Pay fairly for what you buy.
- 3) Return everything you borrow.
- 4) Pay for everything you damage.
- 5) Do not hit or swear at people.
- 6) Do not damage crops.
- 7) Do not take liberties with women.
- 8) Do not ill-treat captives.

Corpus also identifies and marks in evidence several official documents of the CPP, *viz.*,

1. The “Program for a People’s Democratic Revolution, Accomplish National Liberation and Democracy and Pave the Way for a Bright Socialist Future”, approved during the Second Congress of the Communist Party of the Philippines on 05 November 2016 (*Exhibit HHHHHH-42*);
2. “Critique of the Semi-colonial and Semi-Feudal Society (*Exhibit HHHHHH-56*);
3. “Program for a People’s Democratic Revolution” (*Exhibit HHHHHH-71*);
4. “Our Specific Program,” approved by the Second Congress of the Communist Party of the Philippines on 05 November 2016 (*Exhibit HHHHHH-86*).

Witness Corpus further highlights the portion of the fifth document, “In the Military Field, which outlines the party’s immediate and specific demands with respect to the NPA, *viz.*,

1. Accelerate the formation and politico-military training of the full-time and part-time guerrilla units of the New People’s Army, the armed propaganda teams, the people’s militia, self-defense units and armed city partisans on a nationwide scale; and build higher sustainable formations (with center of gravity in relative concentration and peripheral units in relative dispersal) that do not strain the mass base and exhaust cadres and resources and are always open to the multiplication of forces and coverage of more people and territory upon the seizure of more firearms.

2. Carry out actions against the US military bases and detachments, the US control of the Armed Forces of the Philippines as a puppet force and the escalating US military intervention; and condemn the treaties, executive agreements, arrangements, projects and exercises that militarily prop up the reactionary government and armed forces and perpetuate their puppetry to US imperialism and its war machine.
3. **Expand and intensify the tactical offensives (ambushes, raids, arrests, sabotage and other operations) against the regular, police and paramilitary forces of the Armed Forces of the Philippines, capture and accumulate military equipment and bring the stage of the strategic defensive to the stage of strategic stalemate and further on to the stage of the strategic offensive.**
4. Carry out extensive and intensive warfare against the escalating US military intervention, prepare against all-out aggression by the US or any other foreign power by multiplying guerrilla fronts and the appropriate armed units and upgrade the weapons and technology, mainly through confiscation and self-reliant production, and be ready to inflict high casualties on the US aggressor troops.
5. Arrest and detain for trial and punishment by the proper authorities all the counterrevolutionaries who have committed serious crimes as well as the spies and all subversive agents of foreign interventionists and aggressors and their local reactionary cohorts.
6. Campaign against the mustering of the youth, workers, peasants and national minorities for military training and service by the reactionaries and at the same time redirect those who cannot avoid such training and service to take up the revolutionary cause.
7. Disarm and disband the military and police bodyguards as well as private gangs of criminal syndicates and counterrevolutionaries and eliminate drug trafficking, cattle rustling, piracy, banditry and other forms of criminality preying on the people.
8. **Encourage and organize the oppressed national minorities to take up arms against imperialist and feudal oppression.**
9. Wage a war of annihilation but exercise leniency on captured combatants so as to demoralize and disintegrate the enemy forces.
10. **Cooperate with all other armed organizations and movements fighting against imperialist and feudal oppression and take advantage of the factionalization of the ruling classes and the reactionary armed forces.**

B. Symbiotic Relationship: the CPP, NPA and the NDF

Rafael Cruz y Gelmao, a former squad leader of the CPP-NPA's Sandatahang Yunit Propaganda (SYP) operating in Norzagaray and San Jose, Del Monte, Bulacan, testified that his duties included recruiting persons to join the CPP-NPA-NDF. Political work entailed coordinating with the different organizations that were organized and headed by active members of the CPP-

NPA-NDF which included “legal or above-ground organizations” such as Gabriela, Kilusang Mayo Uno (KMU) and Bayan.

Cruz and his armed group particularly dealt with Gabriela in Norzagaray, Bulacan through one Cathy Mendoza “Ernis.” With respect to the KMU, he coordinated with Virgilio Bernabe or “Ka Benjie”, the leader of the KMU in Norzagaray. He also coordinated with Rommel Miranda “Dario”, one of the leaders of Bayan in Bulacan. Each time these groups – Gabriela, KMU or Bayan had a strike, a rally, or kind of mobilization, Cruz sent them money and people. In turn, Ernis, Ka Benjie and Dario would recruit members of their own groups to join the NPA. Cruz’ efficient performance led to his promotion to the position of Acting Secretary of the CPP-NPA-NDF in the province of Bulacan. The position entitled him a seat as the representative to the Regional Party Committee in Central Luzon. It was in such capacity that he met and worked with the other secretaries of the Central Committee.

Noel Minioto Legaspi of barangay Concepcion, Koronadal City, South Cotabato, corroborated and expounded on this point of Cruz’ testimony. Legaspi was a cadre and an officer of the CPP-NPA for 20 years. When he left the underground movement, he was the Deputy Secretary of the Regional Party Committee and the spokesperson of Far South Mindanao. Legaspi described the indispensable role of the NPA as the armed wing of the CPP under its absolute leadership. He elaborated by citing Jose Maria Sison *a.k.a.* Amado Guerrero in one of the latter’s references to the armed group (*“Building Strength through Struggle, 2013”*, Jose Ma. Sison [Amado Guerrero], pages 109, 353, 113 Exhibits O-1; O-2; P-3), viz,

“The New People’s Army celebrates today with boundless joy its fourth anniversary since its establishment by the Communist Party of the Philippines under the powerful illumination of Marxism-Leninism-Mao Zedong Thought. Through the last four years, this army under the absolute leadership of the Party has valiantly and victoriously fought for the national and democratic interests of the Filipino people against US imperialism, feudalism and bureaucratic capitalism. It has brilliantly proven itself to be the authentic, enduring and mighty sword of the people in a protracted people’s war against foreign and feudal domination”.

x x x

x x x

x x x

“We must further strengthen the New People’s Army as the main form of organization under the leadership of the Party and carry forward the revolutionary armed struggle as the main form of our people’s struggle. We have established a good basis for the further strengthening of the New People’s Army.

“Our Red fighters have a high level of political consciousness and are closely linked with the masses. Every squad has a party group within it and oftentimes the majority of the Red fighters are Party members. The Party branch is based currently on the platoon”.

“I. The Main Tasks of the New People’s Army

“Under the Marxist-Leninist principle that the Party commands the gun, the New People’s Army follows the absolute leadership of the Communist Party of the Philippines and the supreme command of Mao Zedong Thought.

“The New People’s Army is an instrument for implementing the Party Program for a People’s Democratic Revolution. It is, as a matter of fact, the principal organization under the command of the Communist Party of the Philippines, an organization for waging the main form of struggle, armed struggle, in the people’s democratic revolution.”

Elaborating on the goal of the CPP which is the establishment of the People’s Democratic Revolution, Legaspi cites the following portion of the respondent organizations’ documents, annexed to, and forming part of, its Constitution, *viz.*,

“II. Program for a People’s Democratic Revolution

“The general program of the Filipino people and the Communist Party of the Philippines is a people’s democratic revolution. All Filipino communists must work and struggle to realize this long-term program and must be ready to sacrifice their lives if necessary in the struggle to bring about a new Philippines that is completely independent, democratic, united, just and prosperous (*Exhibit HHHHHH-71*).

The 2016 Constitution and Program of the CPP further states that:

“The overriding interest of the Filipino people now is to fight for the total victory of the people’s democratic revolution x x x.

“Armed revolution must be waged to defeat the armed counterrevolution and the united front must bring together all positive forces and take advantage of the splits among the reactionaries in order to isolate and destroy the enemy x x x.

“The Party must build the people’s democratic power in the countryside before it can seize the cities. It must fight, discredit and isolate the monopoly of political power by the reactionaries in the cities. In this regard, the armed revolutionary movement and the legal democratic mass movement must complement and help each other in disintegrating and destroying the power of the enemy.

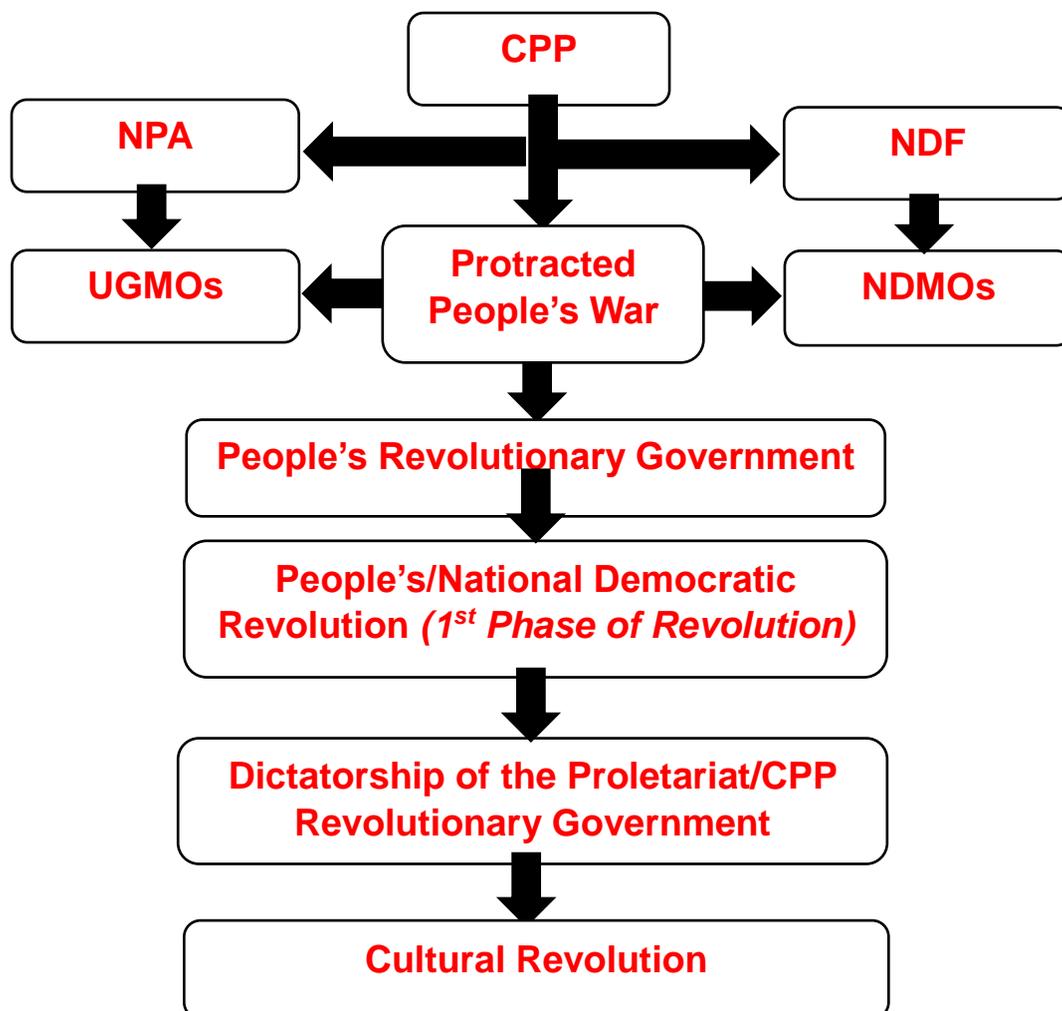
“2. Establish a People’s Democratic State and a Coalition Government.

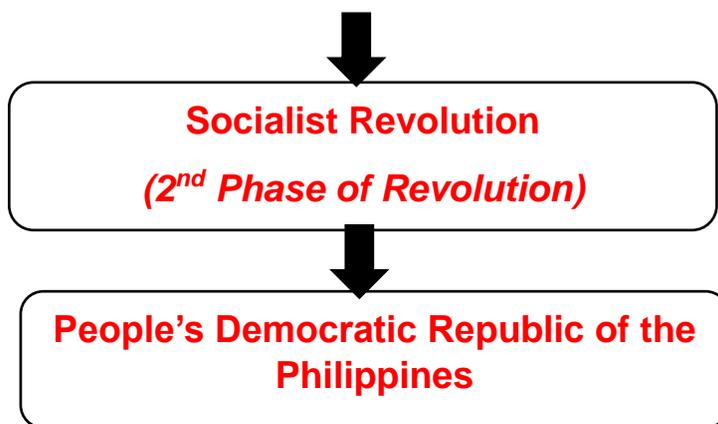
“The ultimate goal of the people’s democratic revolution is the establishment of the people’s democratic state and a coalition or united front government. The people democratic state shall be under the leadership of the working class, founded on the basic alliance of the working class and peasantry, and shall include such other democratic classes as the urban petty bourgeoisie and national bourgeoisie. The Party as the ruling party, in representation of the working class, shall form the government as a coalition or united front of all democratic classes.

“The **National Democratic Front** is a major and organized part and the most consolidated part of the united front. It serves to promote the united front for armed struggle, combine all available forces and elements to isolate and destroy the enemy and pave the way for higher organs of political power, a people’s consultative assembly and a democratic coalition government of the broadest possible character (*Exhibits HHHHHH-73 and HHHHHH-74*).

The NDF is the formal united front organization for advancing the “**National Democratic Revolution**” or “**People’s Democratic Revolution**” through “**protracted people’s war**.” It recognizes and embraces the ideological and political leadership of the CPP and assists the CPP-NPA in the completion of the 1st phase of the Philippine revolution, *i.e.*, the “**National Democratic Revolution**” or “**People’s Democratic Revolution**”, by overthrowing the semi-colonial and semi-feudal ruling system, thereby paving the way for the 2nd phase of the Philippine revolution, which is the “**Socialist Revolution**” and eventually the establishment of the “**People’s Democratic Republic of the Philippines**.” The NDF is the legal “**United Front**.” Legaspi describes the synergy among the CPP, NPA and NDF as being directed towards the fulfilment of this ultimate end.

Legaspi however, clarifies that while the task of the NDF is to gain the broadest support of the Filipino people for the **armed revolution** it is not the overall “United Front.” There are two fronts – the “**Legal United Front**” and the “**Underground United Front**.” It is in the synergy where **revolutionary dual tactics** are employed. These **revolutionary dual tactics** in relation to the synergy of the CPP-NPA-NDF are illustrated as follows:





C. Revolutionary Dual Tactics

Legaspi elaborates on the inseparable link among the CPP-NPA-NDF by connecting it to the inseparable link between the **armed struggle** espoused by the underground movements (**UGMOs**) and the **unarmed** urban revolutionary mass movements espoused by the unarmed movements, the National Democratic Mass Organizations (**NDMOs**) or the “open” or “above-ground organizations.” Pointedly, the CPP-NPA and the NDF employ two (2) ways to overthrow the government -- the first is through **armed struggle** waged by the NPA mostly in the countryside or red areas. The second is the **unarmed legal or parliamentary struggle** which is mainly waged by the **legal fronts** or **NDMOs** in the cities or urban areas. **Unarmed parliamentary or legal struggle** has a **symbiotic relationship** with the NPA’s **armed struggle**. Legal fronts or **NDMOs** have the component tasked to organize **UGMOs** such that it can be said that these legal forms usually have an urban core force that supports the **armed struggle**. The “symbiotic relationship” or “mutualism” between the **armed struggle** and the **unarmed urban revolutionary mass movements** complement each other as they share the same end of seizing control of the government and establishing the **People’s Democratic Republic of the Philippines**.

As a basic principle, **armed struggle** is the primary and decisive form of struggle to overthrow the government. In essence, it is illegal. This is not to say however, that the field of **unarmed struggle** can be classified as primarily “legal”; arguably, it can still be classified as illegal because it implements the **revolutionary dual tactics**, defined as the combination of both “legal” and “illegal” tactics of the CPP. Moreover, within **legal organizations** or **NDMOs** or **front organizations** are secret organizations or **UGMO’s** that support the first form of struggle of the CPP, *i.e.*, the **armed struggle**. Legaspi illustrates the **revolutionary dual tactics** as follows:

	UGMOs	NDMOs
Advocacy	Armed struggle	<ul style="list-style-type: none"> • Unarmed parliamentary • Unarmed urban

		revolutionary mass movements <ul style="list-style-type: none"> • Infiltration or “<i>creeping invasion</i>” of the government • Using Government funds against the Government • Ceasefires and peace negotiations with GRP
Area of operation	Mostly countryside or Red areas	Cities, Urban or White areas

Each sector in the NDMOs and the UGMOs, is organized under the leadership of the CPP-NPA. Expounding on the ***unarmed parliamentary struggle*** as part of the CPP-NPA-NDF’s ***revolutionary dual tactics***, Legaspi gives **as an example the** Kabataan Party list which he identifies as a legal front of the Anakbayan. Anakbayan promotes the CPP-NPA-NDF agenda in the field of ***unarmed parliamentary struggle***. Participation in elections is part of CPP-NPA-NDF’s ***revolutionary dual tactics***. It enables it to have a network within the government, to use government resources for its benefit and to be a medium of anti-government propaganda. Party-list representatives who are identified by Legaspi to be supportive of the ***armed struggle*** and ***unarmed parliamentary struggle*** of the CPP-NPA-NDF included:

- (a) **Sarah Jane Elago**, currently the representative of Kabataan Party List in the House of Representatives;
- (b) **Neri Colmenares**, former representative of Bayan Muna Party List and a member of the National Union of People’s Lawyers (*NUPL*); and
- (c) **Saturnino Ocampo**, former national leader of the CPP-NPA and a former representative of Bayan Muna Party List.

Witness Joy Sanguino corroborated Legaspi’s testimony and further identified the NDMOs targeting specific groups or sectors and their corresponding UGMOs as follows:

Sector	UGMO	NDMO
Youth and Student	Kabataang Makabayan (<i>KM</i>)	<ul style="list-style-type: none"> • Anakbayan • League of Filipino Students (<i>LFS</i>) • National Union of Students in the Philippines (<i>NUSP</i>) • College Editors Guild of the Philippines (<i>CEGP</i>) • Student Christian Movement of the Philippines (<i>SCMP</i>)
Women	Malayang Kilusang Bagong Kababaihan (<i>MAKIBAKA</i>)	<ul style="list-style-type: none"> • Gabriela Youth • Gabriela Women’s Party
Farmers,	Pambansang	<ul style="list-style-type: none"> • Kilusang Magbubukid ng

Fisher folks and Peasants	Katipunan ng mga Magbubukid (<i>PKM</i>)	<ul style="list-style-type: none"> Pilipinas (<i>KMP</i>) Unyon ng Magsasaka sa Agrikultura (<i>UMA</i>) Pambansang Lakas ng mga Mamalakaya (<i>PAMALAKAYA</i>)
Workers	Revolutionary Council of Trade Unions (<i>RCTU</i>)	<ul style="list-style-type: none"> Kilusang Mayo Uno (<i>KMU</i>)
Urban Poor	Katipunan ng mga Samahang Manggagawa (<i>KASAMA</i>)	<ul style="list-style-type: none"> Kalipunan na Damayang Mahihirap (<i>KADAMAY</i>)
Transport	Pambansang Samahan ng mga Makabayang Tsuper (<i>PSMT</i>)	<ul style="list-style-type: none"> Pinagkaisang Samahan ng mga Tsuper at Opereytor Nationwide (<i>PISTON</i>)
Teachers	Katipunan ng mga Gurong Makabayan (<i>KAGUMA</i>)	<ul style="list-style-type: none"> Alliance of Concerned Teachers (<i>ACT</i>) Congress of Teachers and Educators for Nationalism and Democracy (<i>CONTEND</i>)
Government	Makabayang Kawaning Pilipino (<i>MKP</i>)	<ul style="list-style-type: none"> Confederation for Unity and Advancement of Government Employees (<i>COURAGE</i>)
Health	Makabayang Samahang Pangkalusugan (<i>MASAPA</i>)	<ul style="list-style-type: none"> Alliance of Health Workers (<i>AHW</i>) Health Alliance for Democracy (<i>HEAD</i>)
Lawyers	Lupon ng Manananggol Para sa Bayan (<i>LUMABAN</i>)	<ul style="list-style-type: none"> National Union of People's Lawyers (<i>NUPL</i>)
Scientists	Liga ng Agham Para sa Bayan (<i>LAB</i>)	<ul style="list-style-type: none"> AGHAM
Church	Christians for National Liberation (<i>CNL</i>)	<ul style="list-style-type: none"> Promotion of Church Peoples' Response (<i>PCPR</i>)
Artists	Artista at Manunulat ng Sambayanan (<i>ARMAS</i>)	<ul style="list-style-type: none"> National Union of Journalists in the Philippines (<i>NUJP</i>) Concerned Artists of the Philippines Musika Alay sa Bayan

In the recruitment process, the members of the NDMOs are recruited to join the **UGMOs**. Members of the UGMOs are recruited to become cadres and members of the CPP-NPA. The hidden process of recruitment into the armed struggle is illustrated as follows:

The synergy between and among, the NDMOs, the UGMOs and the CPP-NPA is most apparent in the recruitment process illustrated as follows:



Based on the foregoing illustration, the CPP-NPA-NDF's hidden process of recruitment to the **armed struggle** involves several levels of recruitment:

- (a) First, recruitment into one of many "open" or "front organizations" or **NDMOs**;
- (b) Second, recruitment into the **UGMOs** which advocate and support the **armed struggle** of the CPP-NPA-NDF; and
- (c) Third, recruitment into the CPP-NPA.

As can be seen from the foregoing, there is no direct recruitment into the CPP from the "open organizations" or **NDMOs**. Each possible recruit is first recruited into the **NDMOs** before being considered for membership in the **UGMOs** and ultimately in the CPP-NPA. Arguably, it can be said that underneath the seemingly legal status of **NDMOs** is a hidden process of recruitment into the **armed struggle** to overthrow the government.

The indispensability of the **UGMOs** and **NDMOs** to the recruitment process of the CPP-NPA and to the **armed struggle** to overthrow the GRP is pursuant to the strategic political line of the CPP-NPA-NDF which has remained unchanged for more than five (5) decades. As stated in the 2016 Constitution and Program of the CPP (*Exhibit HHHHHH-11*):

"x x x Armed struggle is the main form of struggle while the legal democratic movement is the secondary but indispensable form of struggle."

1. Dual Tactics in the Recruitment Process

This CPP-NPA's process of recruitment is illustrated in the experiences of witnesses Noel Minoto Legaspi, Joy James Alcoser sanguine and Jeffrey Lucas Celiz.

a. Personal Experience of Noel Minoto Legaspi

Legaspi was taking up Political Science at the Mindanao State University (*MSU*), General Santos City when his father who was working at Dole Philippines, Inc. and his mother, were retrenched from their jobs. This incident left a lasting impression and stirred his anger at big companies. At that time, Legaspi was reading books about Karl Marx, Vladimir Lenin and Mao Zedong, as well as the book "*Philippine Society and Revolution*", by Armando Guerrero. He joined the League of Filipino Students (*LFS*), a group which he thought embodied

and fought for the ideals that he learned from books. From 1992 up to 1996, Legaspi became the chairman of the LFS at MSU and participated in different LFS activities, including:

- (a) Recruiting new members thorough room-to-room orientation;
- (b) Exploiting and escalating campaigns on *domestic issues inside the MSU*, such as the unsanitary situations of school comfort rooms, below standard school facilities, and the stinky odor coming from the canning factories.
- (c) Exploiting and escalating campaigns on *national issues*, such as the oil price increase, charter change and the Medium-Term Philippine Development Planning during the Ramos-administration.
- (d) Immersion into the "*basic mass integration*" with different sectors, namely, the labor, urban poor, farmers and IP communities.
- (e) Joining "*discussion groups*", tackling theoretical discourse on Marxism, Leninism, Maoism and Jose Maria Sison's book on "*Philippine Society and Revolution*" and participating in "*mass mobilizations*", rallies, and demonstrations.

Within six (6) months as a member, Legaspi began to notice linkages between the LFS and the NPA. During "*discussion groups*" they were taught to respect the "*armed struggle*" of the NPA. These were, however, done subtly and within the context of a civil war within the Philippines.

As chairman of the LFS chapter of MSU from 1992 to 1996, Legaspi was also the over-all leader of the LFS chapter in General Santos City and South Cotabato. He presided over meetings, conferences and general assemblies of the LFS, led recruitments and orientations of recruits, and conducted Pambansang Demokratikong Paaralan (PADEPA) courses with members. He also led the propaganda and "*basic mass integration*" or the so-called "*community immersion/ exposure*" where recruits were brought to communities to live and/or socialize with poor sectors of society.

In 1994, he was recruited to, and joined the Kabataang Makabayan (KM). A certain Maricel Miana and an unidentified woman approached him and inquired if he knew "*Karina*." He later learned that "*Karina*" was the code for "*Kabataang Makabayan*" or KM, a student/youth underground mass organization (**UGMO**). As they told him, they had conducted a background investigation on him to ascertain whether he can be fully trusted. He later learned that background investigations on particular recruits usually took three (3) to six (6) months. Only about 15% to 20% of LFS members were recruited to KM.

Now a KM member, Legaspi thereafter recruited possible KM members from among LFS members in the different colleges in General Santos City – Notre Dame of Dadiangas College, MSU, Ramon Magsaysay Memorial College

and Holy Trinity College. KM recruitment climbed to 30% and later to 60% when they did away with the conservatism within the Regional Youth/Student Bureau.

As a KM member, Legaspi was often invited to anniversary celebrations of the CPP held every December inside NPA areas. During these instances, the brotherhood and camaraderie were palpable, and the propaganda was overwhelming. Thus, in 1995, while a member of KM, he became a candidate member or "*Kandidatong Kasapi*", and eventually a full-time member or "*Ganap na Kasapi*", of the CPP. He further underwent "*Revolutionary Integration*" from January to May 1996 in order to become a member of the NPA. He met his future wife in a rally in General Santos City, sometime in 1996.

When Legaspi left the CPP-NPA, he was occupying the position of Deputy Secretary of the Regional Party Committee as well as the spokesperson for the NDF, for the Far South Mindanao region.

b. Personal Experience of Joy James Alcoser Saguino

Joy James Alcoser Saguino, of barangay Upper Ulip, Monkayo, Davao De Oro was a member of the CPP-NPA from 2007 to 2018. Like Legaspi, he was first recruited to the LFS chapter of the University of the Philippines (UP) Visayas, Iloilo City in 2007. Three (3) months after joining, he was recruited to the Kabataang Makabayan (KM). In a clandestine meeting of selected student leaders and politically advanced students of UP Visayas, Iloilo City, he became a KM member.

As a KM member, Sanguino was taught to advocate the armed struggle of the CPP-NPA-NDF. He participated in, and organized, several mass actions of "*legal mass organizations*", such as, the LFS, and often without disclosing that he was also a member of KM. With the guidance of leaders of KM in UP Visayas, he trained to become an instructor of basic "*Pambansang Demokratikong Paaralan (PADEPA)*" courses, such as, "*Maikling Kurso sa Lipunan at Rebolusyong Pilipino (MKLRP)*", "*Espesyal na Kursong Masa (ESKUM)*" and the "*Five Golden Rays*". Briefly, PADEPA courses contain the social analysis of Jose Maria Sison and advocate the primacy of the "**armed struggle**" to overthrow the government and, secondarily, the "**unarmed**" or "**legal struggle**" or "**unarmed revolutionary movements**", through the use of "*aboveground organizations*" of the CPP-NPA-NDF.

In March 2008, he joined the CPP as candidate member. At the urging of the CPP, he ran for a position in the local UP student council and when elected to a position in student council, he utilized his position not just to oversee student council work but to recruit other council officers to the KM. A year later, he completed the basic party course of the CPP and was elevated as a full pledged member of the party. That summer, he went to the countryside to complete a 2-month program of revolutionary integration in the Southern Front of the Panay

Region which covered the areas of Igaras and Miag-ao in Iloilo and San Joaquin in Antique. He became a full-time organizer for the CPP in June 2009.

While a full-time organizer, Saguino was also the 2nd Deputy Secretary of the CPP's Party Group tasked to "*regionalize*" or firmly establish the Anakbayan in Panay Island. Saguino described Anakbayan as being "designed" by the CPP as one of its "*above-ground mass organization*" or "*national democratic mass organization (NDMO)*" geared towards the organization, radicalization and recruitment of students and out-of-school youths.

During the first-ever regional assembly of Anakbayan in Panay, Saguino was elected as the Regional Chairperson and concurrently, the Regional Spokesperson. Encouraged by the CPP, he quit his studies to focus on his duties to Anakbayan and the CPP. His tasks expanded to include organizing the urban poor youth, as part of the CPP's Youth Sector (YS). Recruitment entailed utilizing poverty as a rallying point to spread the ideology of the Party; capitalize on social issues; and cultivate hateful and biased criticism against the government.

In April 2010, Saguino was designated the Electoral Campaign Head in Antique with the task of recruiting election watchers and campaign officers, conducting alliance work with the local politicians, and campaigning for party-list organizations created by the CPP, including Bayan Muna and Anakpawis. In 2011, he moved to Zamboanga to enrol in the BS Broadcasting program of Western Mindanao State University (*WMSU*). There, he reconnected with other youth organizers and returned to being a full-time student organizer for Anakbayan. Also in 2011, he attended an "*Intermediate Party Course*" inside a guerrilla unit in Davao. Many of their instructors were armed members of the NPA. After the course, he stayed and joined the NPA and witnessed armed encounters between Guerrilla Front (*GF*) operating by itself or jointly with other NPA units and the military forces. In February 2012, he became part of the tactical headquarters of the Regular Annual Plenum or annual meeting of Sub-Regional Committee (*SRC*) 1 held at an upstream area in Sitio Cogonon, Barangay Salvacion, Trento town.

In 2018, Sanguino left Cotabato City and went to Cebu City where he found a job. In March 2020, he surrendered to the 25th Infantry Battalion. He left the CPP-NPA-NDF due to disillusionment brought about by rampant cases of rape and acts of sexual violence perpetrated by CPP-NPA platoon leaders and commanders. He had elevated the issue to their superiors but the latter never addressed them. He found it unjust that ordinary members found guilty of committing these crimes were severely dealt with while those occupying high positions were merely demoted or temporarily suspended. The movement no longer stood for the ideals he was fighting for. He also wanted to expose the evils caused by the CPP-NPA-NDF to the youth – the destruction of the family as a basic social institution, fomenting an unbelief in God, encouraging disrespect to

parents and elders and allowing students to abandon their studies to join the armed struggle.

c. Personal experience of Jeffrey Luces Celiz

Witness Jeffrey Luces Celiz' involvement with the CPP-NPA-NDF began in July 1991 when he was a student at the West Visayas State University (*WVSU*) in Iloilo City. At that time, he was part of the Editorial Board of the *Forum Dimensions*, the official university student publication and a member of the College Editors' Guild of the Philippines (CEGP). During a seminar sponsored by the CEGP, he was recruited to join the KM.

He later learned that the seminar was actually an indoctrination into the Kabataang Makabayan (*KM*). The "*lecture series*" lasted three (3) days and consisted of a course on "*Lipunan at Rebolusyong Pilipino*", a book written by Amado Guerrero, (Jose Maria Sison), the founder of the CPP-NPA-NDF. It focused on issues regarding the revolution and the historical armed struggle of the people against the government. The lectures were conducted by instructors with names such as "*Ka G-7*", "*Ka Randy*" and "*Ka Nestor*." During the 3-day "*lecture series*", he learned that KM is an "*underground organization*" of the Youth and Student (*YS*) sector of the CPP within "*open organizations*" such as the CEGP. On the last day, they were made to take oath before the KM flag while holding bullets to symbolize the unity of the youth in the armed struggle and revolution of the CPP-NPA-NDF against the government.

After joining the KM, he continued being part of the CEGP and the editorial board of the university student publication. He recruited and organized other school writers in WVSU as well as in different college publications of the university and other schools.

In December of 1991, he was invited to a 2-day orientation on the CPP Constitution and by-laws and the by-laws and rules of the NPA, as a precursor to his recruitment to the CPP. He was recruited by Ka Randy, Ka Nestor and another youth cadre of the CPP from UP Visayas. As a CPP candidate member, his duties included organizing and recruiting for the CEGP and the National Union of Students in the Philippines (NUSP), another open organization of the CPP. He did not disclose to potential recruits that he was a member of the CPP as it was part of their protocol to deny or keep secret their involvement in the underground movement to maintain the claim that the open organizations are "legitimate."

In the middle of March 1992, he attended another course as a requisite to attaining full CPP membership, entitled the "*Basic Party Course*" or "*Batayang Kursong Pang Partido*." The course was held for fifteen (15) days inside an NPA guerrilla zone. By May 1992, he was a full member of the CPP and was part of its Regional Youth Students Bureau operating in the entire Panay island, under the

Regional Urban Party Committee of the CPP-Panay Regional Party Committee.

In June or July 1992, Celiz was deployed to organize ten school chapters of the CEGP all over Panay Island. In December of 1992, and as directed by the CPP Regional Youth and Students Bureau, he started organizing student councils. In 1993, he was assigned to the CPP Regional Youth and Students Bureau (YSB) operating in Iloilo City. That same year, it was decided that he run for a position in the student council. He won the election. Undeniably, his position in the student council facilitated his tasks of recruiting and organizing for the CPP.

As a CPP cadre, Celiz recruited and organized youths and students in Capiz, Aklan and Antique while maintaining his persona as a coordinator of NUSP and CEGP or as a member of Bagong Alyansang Makabayan (*Bayan*), Anakbayan and Kilusang Mayo Uno (*KMU*). Some of his recruits died as NPA fighters while others continued to operate in Panay Island.

In March of 2001, he was deployed by the CPP Regional Party Committee in Panay Island in an underground assignment to the NPA National Operational Command (NOC) under the CPP Central Committee national organ known as the National Military Commission (NMC), specifically under the NPA NOC-NMC National Intelligence Unit - N2. His assignment related to special intelligence work or espionage and other operations related to infiltrating the government and doing counter-intelligence work against the government security sector, particularly the Armed Forces of the Philippines (*AFP*) and the Philippine National Police (*PNP*). As a full-time operative of the N2, Celiz directly reported to Leo Velasco *a.k.a. Jay* and Prudencio Calubid *a.k.a. Manong*, the head of the National Military Commission of the CPP-NPA-NDF and the NPA National Operational Command, respectively. During his stint with the N2, Celiz and his fellow NPA operatives were considered "*hybrid*" because they operated as part of the National Operating Command in the urban areas, but were also totally underground. This meant that they assumed different names and identities, used aliases and safe houses, and entered guerrilla zones.

Celiz left the movement in December of 2008. He cited as a reason his children who were growing up without him and his wife. They realized that they can no longer sacrifice the needs of their children, especially their health to give priority to the needs of the rebel movement that advances its objectives through bloodshed and violence. He was also unable to see any justification in killing innocent people.

d. Another Mode of Recruitment: The School Offensive

The CPP-NPA-NDF Mindanao Commission established schools initially for fund raising purposes. The movement's Education Program in Mindanao started in 1980, and was mostly limited to nursery and kindergarten schools. In the

1990s, they started to build non-formal primary and secondary schools. By year 2000, non-formal primary schools had sprouted all over Mindanao. While general education was always regarded by the revolutionary forces in Mindanao as one of the basic services rendered to its mass base, it was only around 2010 to 2011, when the schools' importance, not just for fund raising, but also for mass-based consolidation, was first realized – if the CPP-NPA can recruit members from different educational institutions such as UP, PUP, MSU, Ateneo de Davao University (ADDU) and the University of Mindanao (UM), why not create their own schools?

The “school offensive” which was the ingenuity of the Mindanao Command of the CPP-NPA-NDF flourished because it was within the setting of the school system and religion which are always present in every community. It became fertile ground to influence and mould the minds of the people. Under this design, educational institutions serve as vehicles to recruit the youth to be members, cadres and combatants for the CPP-NPA.

Noel Minoto Legaspi was one of the leading cadres behind the ***school offensive*** of CPP-NPA-NDF. He led not only the recruitment and selection of students, but the administrative implementation and supervision of the ***school offensive*** in the Far South Mindanao Region particularly in the areas of SOCSARGEN, Davao del Sur, and Davao Occidental.

It was in 2013 when Legaspi and the other co-founders of the ***school offensive*** launched the **Mindanao Revolutionary Movement to pursue an Education Offensive**. It gave birth to schools in Surigao, like the Alternative Learning Center for Agricultural and Livelihood Development (***ALCADEV***) Inc. and Tribal Filipino Program of Surigao del Sur Schools (***TRIFPSS***). They also allied with the Mindanao Interfaith Service Foundation Inc., (MISFI). In Region 11, or South Mindanao Region, there were sixteen (16) Salugpungan Schools under MISFI and the Community Technical College of Southwestern Mindanao, Inc., (CTCSMI). They established Center for Lumads Advocacy Network and Services (***CLANS***). The schools were sustained through project proposals to non-government organizations, domestic and foreign, as well as from the proceeds of extortion activities of the NPA.

Thereafter, the plan became more ambitious – they were to expand to other provinces in Regions 11 and 12, with the ultimate aim of covering the entire Mindanao. The years 2014 to 2016 marked the period of rapid expansion. To further encourage students, scholarships were available to applicants who must be:

- (a) a child of an NPA member;
- (b) a solid supporter of the mass base of the NPA;
- (c) For walk-ins, they must be recommended by a member of the CPP-NPA-NDF.

According to Legaspi, the concept of scholarship program in the education and agriculture courses through the MISFI was geared towards producing “revolutionary teachers.” It was also an easier way of developing cadres if compared to infiltrating colleges and universities.

On hindsight, Legaspi criticized the ***school offensive*** for being a deceptive scheme to exploit the youth. Apart from the usual subjects like English, Math, Science, Social Studies etc., required by the Department of Education, the schools introduce students to **Political Education** which in the parlance of our “*Kalihukan*” or movement, include the teachings or the “*Pagtulun-an*” of CPP-NPA. Under these were the Pambansang Demokratikong Paaralan (**PADEPA**), Sining ng Demokratikong Paaralan Literature at Arteng Kabataan (**SIDLAK**) and **ABAKADA**, and the CPP **Basic Party Course** and **Intermediate Party Course**. The **PADEPA** courses can induce a student to join the **armed struggle** or in Visayan parlance, “***Musampa sa bukid para sa armadong pakig bisog (to proceed to the mountains to join the armed struggle)***”. The teachings incorporated in the **Political Education** are termed as **ideological consolidation**, a process of transforming an individual from a simple scholar to a revolutionary. This process of indoctrination and brainwashing operated as a strategic mechanism to recruit, develop and utilize/exploit individuals as revolutionary teachers, community organizers of UGMOs and combatants of the NPA. Some students did not finish their studies and ended up joining the CPP-NPA. The ***school offensive*** was designed as a long-term plan designed to promote hatred against the government and strengthen mass base organizations by exploiting the youth belonging to marginalized communities. The CPP-NPA-NDF, MISFI, CTCSMI and Salugpungan in confederation with one another, took advantage of the vulnerability of members of marginalized communities; deceived them in the guise of scholarships and free accommodations to hone them to be future cadres and combatants of the CPP-NPA-NDF.

The “**return service**” of the ***school offensive*** was conceptualized for students to become cadres and carry on the cycle of the revolutionary movement. Hopefully, the students would return, impart the same teachings or “***Pagtulun-an***” to the newly-recruited students. Most scholars not only taught in schools affiliated with the CPP-NPA-NDF, but joined in an **armed struggle** or ***Armadong Pakigbisog*** as part of the **Revolutionary Integration** required by MISFI.

Moreover, the school curriculum targeted Indigenous Peoples for exploitation, radicalization and recruitment by adopting a critique of the Philippine Education System as a colonial, commercialized and repressive system, in line with their critique of the larger Philippine society as a semi-colonial and semi-feudal society which can be changed through armed revolutionary struggle.

The BAKWIT school or a school for refugees in militarized areas were described by Legaspi as founded on the idea that the Indigenous Peoples (IPs)

are victims of continued persecution perpetrated by the State forces, particularly the violation of their human rights including the right to education. This, in turn, will hopefully give the international community an impression of the group's belligerent status and encourage financial assistance through project proposals. The IPs are therefore exploited without them knowing it.

Legaspi described the IP communities as fertile grounds for exploitation, radicalization, and recruitment, which explains why many schools are established in IP communities. Most of the rebels who surrendered (83%) in 2016 to 2020 were members of the IP communities. Of this, 85% finished only up to 6th grade and 29% had no formal education at all. According to Legaspi, the movement's program for IPs was a new kind of ethnocide, as it alienated them from themselves and destroyed their culture and traditions.

Witness Joy Sanguino corroborated Legaspi's account of the **School Offensive Campaign**. He participated in building educational institutions in Compostela, Monkayo, and Cateel under the alugpungan, Mindanao Inter-Faith Services Foundation, Inc. (*MISFI*), EILER and Rural Missionaries of the Philippines (*RMP*), as well as CPP-NPA-NDF schools in Sitio Quarry, Sitio Puting Bato, Barangay Ngan, Compostela; Sitio Spar 2, Aliwagwag, Cateel, Davao Oriental; Pananzalan, Compostela, Davao de Oro; Sitio Letter V, Barangay Upper Ulip and Sitio Pag-asa, Barangay Mt. Diwata, both in Monkayo, Davao de Oro, and in other areas in the Davao Region.

In November 2012, he was one the main instructors of a PADEPA school which held classes at Sitio Side 4, Barangay Ngan, Compostela town. The school was attended by locals and some villagers of Sitio Das 3, Barangay Upper Ulip, and Sitio Dam, Barangay Nabod, Monkayo town. PADEPA courses were conducted once or twice a month. Each class had a minimum of fifteen (15) students, some of whom were as young as 13 years old.

2. Dual Tactics in Peace Negotiations

As argued by the Petitioner, the NDMOs advocate *ceasefires* and *peace negotiations* with the government, not because they want to achieve peace, but as a part of the CPP-NPA-NDF's *revolutionary dual tactics*. As CPP-NPA-NDF leader Luis Jalandoni has admitted in an old video (*Exhibit AAAAAAA*), *viz.*,

"You see that the peace negotiations are another form of legal struggle which is possible to be used by the revolutionary forces in order to advance the revolutionary armed struggle and the revolutionary mass movement. This other form of legal struggle, the peace negotiations does not replace the revolutionary armed struggle or the revolutionary mass movement. In fact, it should advance, it should support this revolutionary armed struggle as the main form of struggle and the revolutionary mass movement which is a more important struggle than the peace negotiations".

In classifying “ceasefires” and “peace negotiations” with the government as part of the CPP-NPA-NDF subterfuge to pursue hidden agenda, witness Noel Minoto Legaspi points out that before and during peace negotiations, the CPP-NPA-NDF always demand for the release of their members or officers who are detained while facing trial as accused in criminal cases, on the pretext that these prisoners are NDF consultants and therefore, are protected by the Joint Agreement on Safety and Immunity Guarantee (JASIG).¹⁵ The government, driven by a sincerity to achieve a lasting peace, always accedes to these demands (*see Memorandum of Secretary of Justice Vitaliano N. Aguirre II to all Chiefs of Regional, Provincial and City Prosecution Offices and Handling Prosecutors dated August 9, 2016, Exhibits M to M-6*).

Ceasefires, which usually come with on-going peace negotiations, are characterized by a suspension of military and police operations (“SOMO” and “SOPO”), as well as **tactical offensives** on the part of the NPA. Unfortunately, however, even during the ceasefire period, the CPP-NPA continue with extortion, recruitment and arson activities unscathed by the AFP and PNP forces that are under SOMO and SOPO, as these activities are not covered by the **ceasefire**. Arguably, it is during **ceasefires** that the CPP-NPA recover and improve their mass bases and intensify recruitment.

During the ongoing **ceasefire** and **peace negotiation** in August 2016 and January 2017, no less than thirty-two (32) incidents of arson in various areas in Mindanao are blamed on the CPP-NPA-NDF, prompting the president to order the termination of the **ceasefire** in February of 2017. The termination of the **ceasefire** marks resumption of the **tactical offensives** of the CPP-NPA-NDF against AFP and PNP personnel, rebel returnees and civilians with the purpose of compelling the government to reinstate the **ceasefire** and to return to the negotiating table. The cycle goes on.

It is the position of the Petitioner that the commission by the CPP-NPA-NDF of atrocities against civilians and military, alike, is in order to coerce the government to give in to their “unlawful demand”, which is to reinstate the **ceasefire** and return to the negotiating table for the **peace talks**. The petitioner argues that the demand to reinstate ceasefire and resume peace talks is “unlawful” because of the respondent organizations’ underlying agenda. Witness Joy James Sanguino, in his testimony, points out that Jose Maria Sison himself has declared that the NPA can kill one (1) soldier each day per region to compel the GRP to resume the peace negotiations (*Exhibits GGGGGG & GGGGGG-1*), thus:

“Exiled Communist Party of the Philippines (CPP) founder Jose Maria ‘Joma’ Sison x x x warned that the NPA rebels could launch

¹⁵ The Joint Agreement on Safety and Immunity Guarantee (JASIG) was signed between the government of the Republic of the Philippines and the National Democratic Front on April 25, 1995. It provided immunity to all persons who are accredited representatives of each party from surveillance, harassment, search, arrest, detention, prosecution and interrogation or similar punitive actions due to any involvement or participation in the peace process.

continuous attacks and kill one government soldier a day to force the government to revive the peace talks. x x x

“The NPA in 17 regions has actually the capacity of knocking out at least one AFP soldier every day per region. That eliminates at least 510 enemy troops or some 5 companies every month nationwide. x x x

“x x x This translates to the elimination of some 60 companies or 20 basic battalions every year.

“x x x The NPA had the advantage of being able to launch ambushes and raids by surprise. x x x” (*Joma: NPA could kill 1 soldier a day, by: Delfin T. Mallari Jr. – Correspondent / @dtmallarijrINQ, 07:05 AM February 05, 2018 (See Exhibits GGGGGG & GGGGGG-1).*

Legaspi dismisses the CPP-NPA-NDF’s utilization of peace negotiations as being only for international propaganda, as a means to project a good image in the international community and encourage international aid from other countries. That revolutionaries are likely more motivated by the prospect of the public platform offered by formal negotiations than by a serious commitment to peace partly explains the failure of peace negotiations. (*The Communist Insurgency in the Philippines: Tactics and Talks Crisis Group Asia Report N°202, 14 February 2011).*

a. Elusive Peace: Contentious Peace Talks with the Government, Spanning Six Administrations

Petitioner’s witness, Maria Carla Munsayac-Villarta has been with the Office of the Presidential Adviser on the Peace Process (OPAPP) since 1995. The OPAPP is an office mandated to oversee, coordinate, and integrate the implementation of the comprehensive peace process. At one time, she has served as the head of the government peace panel secretariat which takes charge of ensuring the efficient, effective and timely provision of technical, administrative and secretariat support to the government panel. Presently, she is the Director of the Localized Peace Engagement Department. The length of time that Villarta worked with the OPAPP gives her the vantage point of being witness to the different peace negotiations from 1995 until 2017 between the government and the respondent organizations. Villarta sums up her impressions of the peace negotiations as follows:

- (a) The peace negotiations between the GRP and the NDF have been intermittent and protracted. The first peace negotiation is in 1986 under the Aquino administration. To date, no peace settlement has been reached;
- (b) The recurring reasons for the protracted negotiations and failure to arrive at a settlement have been an impasse on the same issues:
 - (i) the NDF’s claim to sovereignty;

- (ii) (ii) the NDF's unreasonable demand for the release of their consultants and other alleged political offenders before formal talks can resume;
- (iii) (iii) the NDF's abduction of government military and police personnel; and,
- (iv) (iv) the NDF's acts of violence on the ground.

In her testimony, Villarta identifies several documents detailing the government's peace negotiations with the CPP-NPA-NDF under six different administrations.¹⁶ The Court summarizes the highlights of negotiations undertaken under each administration as follows:

Corazon C. Aquino Administration (1986 to 1992). Peace negotiations with the NDF began immediately after the victory of the EDSA People Power in 1986 pursuant to the government's policy of reconciliation. After coming to power, Cory Aquino released all political prisoners, including Jose Maria Sison. The offer of peace talks with the CPP-NPA was accompanied by a ceasefire that lasted from December 1986 to January 1987. Preliminary negotiations, focusing on the provision of safety guarantees for the NDF representatives were likewise undertaken. The first formal peace talks on the substantive issues took place in January 1987.

Unfortunately, the peace talk was short-lived. Differences in frameworks of both sides to address socio-economic and political issues proved to be insurmountable hurdles. The NDF walked out of the negotiations after the bloody clash between the police and the stone-throwing farmer-demonstrators who attempted to enter Malacanang. Since then, the Aquino administration never resumed formal talks.

Ramos Administration (1992 to 1998). Under the presidency of Fidel V. Ramos, a total of five (5) major procedural agreements were reached between the government and the CPP-NPA-NDF. This allowed progress to the formal phase of substantive talks. These major procedural agreements included the following: (i) The Hague Joint Declaration (HJD) signed on September 1, 1992; and the (ii) Joint Agreement on Safety and Immunity Guarantees (JASIG) signed on February 24 1995. The Hague Joint Declaration (HJD) provided the framework for formal negotiations.

The JASIG on the other hand, guaranteed free movement and immunity from arrest, surveillance, interrogation and similar actions of a person connected or involved with, the peace negotiations (*Book 1, pages 68-72, Exhibits*

¹⁶ The compendium is subdivided into Book 1, Book 2, and Book 3. Book 1 covered the Corazon C. Aquino Administration to the Macapagal-Arroyo Administration (*Exhibits "BBBBBBB" to "BBBBBBB-226"*). Book 2 covered the Benigno Aquino III Administration (*Exhibits "CCCCCCC" to "CCCCCCC-155"*). And, lastly, Book 3 covered the Duterte Administration (*Exhibits "DDDDDDD" to "DDDDDDD-98"*).

BBBBBBB-75 to BBBBBB-79). These agreements laid the foundation for the opening of formal talks in Brussels, Belgium on 25 June 1995.

Talks were suspended when the NDF declared that they will not proceed to substantive talks unless Sotero Llamas, a top ranking NPA leader who was captured in an armed encounter in the Bicol Region, was released from detention and brought to Belgium (*Statement on Government Suspension of Talks 27 June 1995, pp. 153 to 154 of Book 1, Exhibits BBBBBB-160 to BBBBBB-161*). While the government's initial answer was that Llamas' release was in the hands of the courts, under the principle of separation of power, it did its best to accommodate the NDF's demand that Llamas arrive in Belgium in a week.

Formal peace talks resumed in June 1996 and was followed by fifteen (15) rounds of formal and informal meetings that resulted to five (5) agreements. Of these, the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) signed on March 16, 1998, and comprising the first of the four (4) comprehensive agreements was the most substantive reform agreement (*Pages 88-99 of Book 1, Exhibits BBBBBB-95 to BBBBBB-106*). After signing the CARHRIHL, the NDF demanded its immediate approval by President Ramos and thereafter, its immediate implementation. As the negotiation process did not require the president to immediately approve of each agreement as it was attained, President Ramos was advised to defer the approval until the other agreements were attained, as these agreements had interlocking provisions. Nonetheless, in an attempt to accommodate the NDF's demands, President Ramos agreed to implement CARHRIHL if the NDF agreed to a mutual ceasefire for the duration of the talks. The NDF rejected the proposal of a mutual ceasefire and continued its demand for the President's approval and implementation of the CARHRIHL as a condition for it to proceed to the next round of talks. The government, of the position that the demand was a violation of the agreed process, did not resume the peace talks (*Panel Press Statement dated 22 May 1998, Book 1, pages 166 to 167, Exhibits BBBBBB-173 to BBBBBB-174*).

Estrada Administration (1998 to 2001). On 07 August 1998, President Joseph E. Estrada approved the CARHRIHL and its implementation in accordance with constitutional and legal processes. Per the NDF's pronouncement, it had instructed all its forces "to observe and implement the Agreement in accordance with the Constitutional framework of the revolutionary forces and the NDF in their areas of political authority" (*Book 1, pages 171 to 172, Exhibits BBBBBB-178 to BBBBBB-179*). The government took exception to this statement of the NDF, pointing out that the mode of implementation of the agreement must not in any manner impinge on the Philippine Constitution. Peace were not meant to either erode the sovereignty of the Republic or undermine its duly constituted Government. Resumption of the formal peace talks was deferred.

Two months later, in October of 1998, the government reasserted its exclusive right to prosecute, try and apply sanctions against violators of human rights in the implementation of the CARHRIHL (*Part III on Respect for Human Rights, Article 4* of the said agreement). The NDF rejected this and insisted that its own judicial system and legal processes should co-exist with that of the government.

The abduction of Officers Obillo and Montealto of the Philippine Army who, during their abduction, was merely engaging in development and community work led the government to indefinitely suspend peace talks and the JASIG. (*Press Statement on the Abduction of Brigadier General Victor Obillo and Capt. Montealto, 19 February 1999, Book 1, page 175, Exhibit BBBB-182*). It reminded the CPP-NPA-NDF that the approval of the President of CARHRIHL was conditioned on its implementation in accordance with the Constitutional and legal processes of the Republic of the Philippines. The CPP-NPA-NDF cannot use the Agreement to usurp an exclusive government function by subjecting government personnel and citizens of the Republic to prosecution, trial and punishment.

With the help of a humanitarian mission, a Memorandum of Agreement (MOA) on the release of Obillo, et al. was signed with the NDF in March of 1999. In April 1999 when the victims were released, the government lifted the suspension of the peace talks and of the JASIG. Unfortunately, the peace talks were again deferred on another issue – the Philippines' Visiting Forces Agreement (VFA) with the United States. The NDF threatened to terminate the peace talks if the government approved the VFA. (*Panel Statement, 10 May 10, 1999, Book 1, page 180, Exhibit BBBB-187*). The VFA attained central importance in the peace talks because both panels cited national sovereignty as a mutually acceptable principle – the NDF claimed that the VFA was an infringement on national sovereignty; the government countered that the claim was ironic coming from the NDF whose claim to sovereignty powers under a self-proclaimed "People's Democratic Government" had posed a direct threat to the country's national sovereignty and was violative of the Republic's Constitution. On 30 May 1999, the NDF pulled out of the peace talks (*Government's Panel Statement on the NDF's Termination of the Talks, 29 May 1999, Book 1, page 182, Exhibit BBBB-189*). The President directed the localization of peace efforts to address the communist insurgency.

Macapagal-Arroyo Administration (2001 to 2010). After EDSA II, President Gloria Macapagal-Arroyo reconstituted the government panel for peace talks with the NDF. Formal peace negotiations resumed in Oslo, Norway in April and June of 2001. Everything was proceeding smoothly until NDF Panel Chairman Luis Jalandoni issued a congratulatory statement to the NPA Fortunato Camus Command for the assassination of Congressman Rodolfo Aguinaldo of the 3rd District of Cagayan province on 12 June 2001. The government considered the statement violative of the Confidence Building Measures (CBM) which were

meant to improve the climate of the peace negotiations. It suspended the peace talks. (*GRP Panel Statement 13 June 2001, Book 1, page 188, Exhibit BBBB-195*).

Formal talks resumed in February, April and June 2004 in Oslo, Norway, and resulted in agreements to conduct the next round of peace talks on August 24 to 30, 2004. However, the NDF postponed the peace talks due to the renewed terrorist listing by the United States of the CPP, NPA and Mr. Sison (*Government Panel Statement, 12 August 2004, Book 1, page 201, Exhibit BBBB-208*). The NDF demanded the Philippine government to facilitate the de-listing of the CPP/NPA as a terrorist group as a condition for the peace talks to continue (*Government Press Release on the GRP Proposal for an Interim Limited Ceasefire, dated 06 April 2005, Book 1, pp. 208 to 209, Exhibits BBBB-215 to BBBB-216*). In response, the government clarified to the NDF that the Philippines cannot interfere with internal policy decisions made by other sovereign nations. The incident resulted in a seven-year impasse.

Attempts to break the impasse were made during informal meetings in December 2004 in the Netherlands. On 09 February 2005, President Arroyo announced the reorganization of the government peace panel. On 04 May 2005, the government issued a statement condemning the killing of Sgt. Rosete and three (3) other civilians by the NPA on 06 September 2002, or two (2) years before the NDF belatedly announced their executions (*Page 210 of Book 1, Exhibit BBBB-217*). On 03 August 2005, the government panel sent a notice to the NDF suspending the JASIG, citing as ground the abandonment of the peace negotiations by the NDF. This was followed by an impasse for the next three (3) years.

Informal talks were again held in November of 2008, accompanied by the restoration of the JASIG and a joint ceasefire. The talks ended again in impasse over the issue of the duration of the ceasefire – the NDF wanted a goodwill ceasefire only for the duration of actual panel meetings while the government wanted the ceasefire to be continuous throughout the process. In February 2009, to facilitate a resumption of the peace talks and as a gesture of goodwill, the government panel dropped its condition for a long-term ceasefire and on 17 July 2009, lifted the suspension of the JASIG. It also worked for the release of the NDF priority consultants namely Francis Anton Principe, Randall Echanis, Vicente Ladlad and Rafael Baylosis. Six (6) cases involving Principe pending in various courts were dismissed. Principe was released from PNP custody on 21 July 2009. The Supreme Court ordered the provisional release of Echanis from PNP custody on 14 August 2009. Ladlad and Baylosis, on the other hand, refused to surface despite the restoration of the JASIG. Both demanded the withdrawal of their cases and the quashal of arrest warrants issued against them. On ground that Ladlad's and Baylosis' demands were violative of the legal processes of the country, the government panel denied said demands and offered Safe Conduct Passes, instead.

Despite these concessions, formal peace talks did not proceed because the NDF: (a) took issue with the provisional release of Echanis; (b) rejected the offered Safe Conduct Passes; (c) demanded the release of the other claimed consultants (the number of which was increased from 8 to 10); and, (d) backtracked from their commitment to start Working Group discussions on EH-DF and instead declared that they would pursue negotiations under a “future regime.”

Another round of informal talks took place in the Netherlands in November of 2009 with the parties coming to an agreement that pending judicial action on the cases of Echanis, Ladlad and Baylosis, the NDF would issue Documents of Identifications (DIs) and the government panel would issue Letters of Acknowledgements (LAs) to facilitate their participation in the formal talks in December 2009. However, the NDF later reiterated their demand for the release of then (10) other detained claimed consultants as a condition to the revival of formal talks in December 2009. The government panel denied the demand, reiterating its position that the release of the NDF consultants should be done in accordance with the judicial and legal processes.

Benigno Aquino III Administration (2010 to 2016). During the talks on 15 to 21 February 2011 in Oslo, Norway, it was agreed that formal peace talks resume under the administration of President Benigno Aquino III. In preparation, he government ordered the withdrawal of charges against the “Morong 43” who were charged with illegal possession of explosives as well as the other political offenders who were named by the NDF as its consultants. The government also agreed to a ceasefire with the NDF from 16 December 2010 to 03 January 2011. Unfortunately, the ambush by the NPA in Samar resulting in the death of ten (10) soldiers and a 9-year-old boy on 16 December 16, 2010 marred the first day of the ceasefire (*Panel Statement on “Let Us Be Resolute To The Cause Of Peace”, GRP-NDF Panel Statement, Book 2, page 116, Exhibit CCCCCC-117*). This notwithstanding, the government however, expressed that it would adhere to the agreed ceasefire. Both parties signed the Oslo Joint Statement of 21 February 2011 containing the 6 agenda items, including the JASIG and confidence building measures (CBM).

The subsequent scheduled meetings to discuss other agenda items did not proceed. In a letter dated 18 May 2011, the NDF stated that these meetings could resume only upon the release of all or most of the seventeen (17) persons referred to in the 2011 Joint Statement. In June of 2011, the NDF unilaterally suspended the scheduled talks. The government disagreed with the suspension, emphasizing that under the 2011 Joint Statement, releases were not unconditional but subject to JASIG verification and were to be carried out before the next round of formal talks. On 26 July 2011, the government pushed for the conduct of the JASIG verification process to validate the identities of persons

using aliases in the list of JASIG-Covered Document of Identification Holders as prescribed in the JASIG Supplemental Agreement signed in 1996.

The JASIG verification process failed because the NDF violated the procedure agreed to in 1996 by placing floppy discs with encrypted photographs in the safety deposit box, instead of hard copies of the alias holders' pictures (*Government Panel Statement 15 February 2012*). Moreover, the floppy discs were found to be corrupted (*Book 2, pp. 122-123, Exhibits CCCCCC-123 to CCCCCC-124*). This rendered impossible the release of all of the NDF's claimed consultants who were using aliases, as their identities could not be validated. Efforts to break the impasse were unsuccessful in the face of the NDF's insistent call for the government to release its consultants as a condition for the resumption of the peace talks.

Unofficial discussions carried out in the last quarter of 2014 by a team of private emissaries under the guidance of OPAPP to revive the peace talks, first appeared positive but did not push through when the NDF continued with its demand for the immediate release of seventeen (17) consultants as well as at least two hundred (200) other prisoners (some of them were yet to be identified), and the immediate reconstitution of the JASIG list of identification holders to enable eighty-seven (87) NDF underground personalities to participate in the negotiations as well as the "suspension, archiving, withdrawal or dismissals of all pending cases, at whatever stage, against the seventeen (17) detained consultants as well as against other JASIG-protected persons" were found by the government panel to be unacceptable.

Duterte Administration (2016 to 2022). The peace talks in Oslo, Norway in 2016 under the Duterte administration ended almost half a decade of impasse. Prior to the resumption of formal talks, the president declared an indefinite unilateral ceasefire as well as the release of several detained persons who were claimed to be consultants to the negotiations. Initial talks generated discussions on the substantive agenda and facilitated the signing of agreements followed by three (3) rounds of formal talks.

The year 2017 was marked by disruptions to the peace process due to continuing hostilities by the NDF, such as attacks against government forces and civilians, arson, and abduction of government forces. Peace adviser Jesus G. Dureza soon announced that the government will not participate in the scheduled fifth round of peace negotiations in view of the publicly announced order of the CPP to its forces on the ground to accelerate and intensify attacks against the government in the face of the latter's declaration, was brought about by the terrorist attack in Marawi (*Book 3, Exhibit DDDDDDD-55*). A gun attack on a police car in Malaybalay, Bukidnon by the NPA resulting in the death of a 4-month old child was the final straw that drove the President, through Proclamation No. 360, to formally terminate the peace talks on 23 November 2017.

Shortly after, on 05 December 2017, the President signed Proclamation No. 374 declaring the CPP-NPA as a designated/identified terrorist organization. In 2018, informal talks to give peace “another last chance” were abandoned when the CPP-NPA refused to budge on the following demands of the government: (i) that there be no coalition government; (ii) that the CPP-NPA should stop extortion activities; (iii) there should be a ceasefire arrangement where NPA forces should be encamped in designated areas; and (iv) that the venue of the talks should be local. The hard-line stance of the respondent organizations persisted despite President Duterte’s commitment to provide support, if necessary, in replacement of the “revolutionary tax” that is being extorted from the people (*Statement of the Peace Adviser on the Resumption of Peace Talks, 04 April 2018, Book 3, and Exhibit DDDDDDD-58*).

On 04 December 2018, President Duterte issued Executive Order No. 70, ordering the institutionalization of a whole-of-nation approach in attaining inclusive and sustainable peace, the creation of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), and the implementation of localized peace engagements that include localized peace talks between the local government units and former members of the Communist Terrorist Group (CTG).

On 21 February 2018, the Department of Justice filed the instant Petition before this Court for the declaration of CPP-NPA as designated/identified terrorists under the provision of the Human Security Act of 2007.

d. Other Practices

1. Revolutionary Taxes

The NPA raises money through the collection of “revolutionary taxes.” The largest collection comes from the Davao region. According to military estimates, in 2010, the NPA has collected 39.5 million pesos which is nearly half of the 95.5 million pesos (\$2.15 million) it raises from revolutionary taxes throughout the country that same year. Funds are also collected in the Compostela Valley, where small-scale miners, resisting government efforts to establish larger mines, instead turn to the NPA for protection. Also, some NPA regular members may be miners themselves. The CPP, while officially opposing destruction of the environment, consider limited extraction acceptable as long as it is not used for export. The military, in 2009, estimated that the province could provide the group with as much as 20 million pesos a month which amount is sufficient for guerrillas to allocate surplus funds for their dependents, a luxury that units elsewhere cannot afford.

The NPA targets small businesses as well. An owner of a fleet of trucks transporting gravel and sand from a quarry in the Davao area pays 5,000 pesos per year for each truck. The NPA levies a tax of four pesos per kilogram on

banana vendors in New Bataan in the Compostela Valley until the military increased its presence. (*The Communist Insurgency in the Philippines: Tactics and Talks Crisis Group Asia Report N°202, 14 February 2011.*)

Rafael Cruz y Glemao¹⁷ also known as “*Delfin de Guzman*”, “*BSTE*”, “*Peps*”, “*Jojie*”, “*Puti*”, and “*Brando*” decides to join the CPP-NPA-NDF in 1992. He testified that his tasks included raising funds for the CPP-NPA-NDF by collecting revolutionary tax from the individual businessmen and companies. Taxes usually comprise 10% of gross earnings. Cruz then enumerates the businesses and business persons from whom he has collected revolutionary taxes within the area of Norzagaray, Bulacan.¹⁸ Businesses which refuse to pay, become victims of sabotage. Cruz likewise admits to taking part in the sabotage of private properties for failure to pay the revolutionary taxes, *viz.*,

- Shooting the cows in the ranch of “Atay” during the first quarter of 1997 in Barangay Malibay, San Miguel, Bulacan. Atay is a rich bourgeoisie in the area who refused to pay the revolutionary tax imposed by the CPP-NPA.
- Burning the PLDT tower in Barangay Camatcin, Dona Remedios Trinidad, Bulacan during the second quarter of 1996.
- Burning the Globe telecom tower in Barangay Alagaw, San Ildefonso, Bulacan during the last quarter of 1996. The sabotage was due to the absence of response on the part of the telecommunication company to their demand for revolutionary tax.

In his testimony, witness Joy James Sanguino recalls that on June 2014, he is designated the Secretary of the Platoon Party Committee with the task of handling “*revolutionary taxation*” and finance in the areas of Mt. Diwata and Monkayo town. Funds from extortion activities are collected by Boy Bacquiao, June Fernandez and Rolando Barte of the “*legal*” or “*above-ground organization*”, the “*Nagkahiusang Katawhan sa Diwalwal.*”

According to Sanguino, for a business to operate in an NPA-controlled area, or even for its security guards to be able to carry firearms, it must obtain clearance from the NPA. The NPA only issues clearance after it has paid “*revolutionary taxes.*” “*Revolutionary tax*” range from P5,000.00 to as high as P200,000.00 per month. Among the instances when Sanguino has taken part in NPA-imposed sanctions for failure of businesses to pay the revolutionary tax, are as follows:

- (a) March 2014, Sanguino takes part in the “*disarma*” project against a mining company, at Sitio 5M, Barangay Boston town. They confiscate the firearms of the security guards of the mining company;

¹⁷ Sinumpaang Salaysay, Rafael Cruz y Glemao, dated 19 May 2006 (Exhibit DDD-DD2).

¹⁸ Patagan Marble Company owned by Willy Patagan, quarry operator Frenie Silverio, Campos Quarry Company, Ang Palad Quarrying Company owned by Cynthia Palad, Lowel Trucking owned by Lowel Esauibel, Saplala Grocery, Triple-J Grocery, Dante Palad and Valenciano Cruz.

- (b) In 2015, Sanguino is directed to bring the platoon for a tactical concentration with GF25 in Sitio Side 4, Barangay Mangayon, Compostela town, in preparation for the big Southern Mindanao Regional Committee (SMRC) - led project to disarm and raid a mining company for failing to pay “*revolutionary taxes*” to the NPA.

2. Subversive Websites

Christopher M. Paz

Christopher M. Paz, chief of the digital forensic laboratory (DFL) of the National Bureau of Investigation (NBI) testifies that he acting on the letter-request of Restituto T. Santos, assistant Director General of the Directorate for Counter Terrorism, National Intelligence Coordinating Agency (NICA), for him to examine various sites indicated in the attached digital video disc he conducted a forensic examination, utilizing different on-line search engines and downloads. In his Digital Forensic Report dated January 18, 2018 with reference number FE-18-01-005, Paz confirms the existence of the following eleven (11) websites with subversive content. These online sites containing subversive materials, all with screenshot date January 15, 2018 (*Exhibits U, V – V-12; W – W17*), are identified as follows:

- a. “Labanan ng Kontrarebolusyon ng Rehimeng US-Duterte,” <https://www.ndfp.org/labanan-ang-kontrarebolusyon-ng-rehimeng-us-duterte/>
Source: National Democratic Front of the Philippines
- b. “Further Advance Amidst the threat of US-Duterte’s Regime of Annihilating the Revolutionary Movement!”, Melitor Glor Command and the CPP 49th Founding Anniversary,
<https://www.philippinerevolution.info/statements/20171226-further-advance-amidst-the-threat-of-us-dutertes-regime-of-annihilating-the-revolutionary-m>
Source: Philippine Revolution Web Central
- c. “NPA ends ceasefire but says talks should continue,”
<https://youtu.be/zRbwHk2U6Ry?t=4>
Source: YouTube; Uploaded: Rappler
- d. Skype Conference with Pro. Jose Maria Sison and ABS-CBN and other media journalists in Butuan City, 04 September 2017,
<https://youtu.be/F5LjdscjDM?t=46>
Source: YouTube; uploader: 008379
- e. “Prospects under Duterte Administration and Tasks of the Filipino Youth, by Professor Jose Maria Sison, Founding Chairman, Communist Party of the Philippines, Chief Political Consultant, National Democratic Front of the Philippines, June 10 2016”, <https://youtu-be/dga0bha8B8?t=1>
Source: YouTube; Up loader: 008379
- f. Jose Maria Sison Organizations,
<https://www.youtube.com/watch?v=m7iyL4Xdy0>
Source: YouTube; Up loader: freespirit32

- g. “Barangay Subayan, Bansalan, Davao Del Sur,
<https://www.youtube.com/watch?v=JITvfBW3KoQ>
Source: YouTube; Up loader: Dpatrol26
- h. “I-Witness: Ang Pagbabalik sa Karagatan”,
<https://youtu.be/HiqxOlhCG9E?t=31>
Source: YouTube
- i. “Victor Corpuz- Plaza Miranda Bombing”,
<https://youtu.be/ft9KclP5VL4?t=104>,
Source: YouTube
- j. “Unite the Filipino People to resist and overthrow the fascist US-Duterte Regime”, Ang Bayan, 12-26-17 (Mother Link),
https://www.philippinerevolution.info/ang_bayan/2-171226/
Source: Philippine Revolution Web Central
- k. “Unite the Filipino People to resist and overthrow the fascist US-Duterte regime”, Ang Bayan 07-01-18 (Mother Link),
https://www.philippinerevolution.info/ang_bayan/20180107/
Source: Philippine Revolution Web Central
- l. “Build the broadest united front to overthrow the US-Duterte regime and its rule of fascist terror”, Ang Bayan” 07-01-18 (Mother Link),
https://www.philippinerevolution.info/ang_bayan/20180107/
Source: Philippine Revolution Web Central

VI. Atrocities Committed by the Movement

A. Atrocities within the Movement

1. Internal Purging

The capture of key leaders of the CPP-NPA, including Rafael Baylasis (Secretary General) and Romulo Kintanar (top NPA commander) in March 1988 gave rise to fears that military spies had infiltrated the organization. This resulted to a round of purges which began in early 1988: Operation Missing Link in Southern Tagalog and Operation Olympia in Manila. By early 1989, 100 to 120 cadres had been killed by their comrades.

A decade later, by the early 1990s, fissures within the party became apparent due to three separate but intertwined issues. The first was disagreement over strategy and tactics, and in particular, the right balance between armed and other forms of struggle (legal or parliamentary). The second was whether to focus on the countryside or the cities. The third was centred on internal decision-making procedures, in particular whether the party should impose decisions from the top down. Sison launched an effort to “rectify” the movement. He wrote documents critical of innovations of the 1980s and reasserted the primacy of the Maoist-inspired rural armed struggle. These documents were adopted in the July 1992 Central Committee plenum. Sison also castigated the strategy of urban insurrection pursued in Davao and Manila, the “regularization” of NPA fighters into companies and battalions and the energy

cadres wasted on administrative work in legal and semi-legal mass organisations (*The Communist Insurgency in the Philippines: Tactics and Talks Crisis Group Asia Report N°202, 14 February 2011*).

Veronica P. Tabara¹⁹ of Dumaguete City, Negros Oriental, once a high-ranking member and officer of the CPP-NPA from 1973 to 1988 testified on the purging campaign first implemented by the Quezon-Bicol Party Committee during the early part of the 1980's pursuant to the *Anti-Infiltration Campaign* ordered by the Central Committee. The campaign was admitted by the CPP-NPA in several of its official documents issued in November 1992, *i.e.*, *"Pangkalahatang Pagbabalik Aral sa mga Mahahalagang Pangyayari sa Pasya"*, *"Mga Aral Mula sa Naganap na Impiltrasyon sa Hangganang Quezon-Bikol."* The latter document also served as guide in the nationwide implementation of *"Anti-Infiltration Campaign"* (*Exhibits EE to EE-17*). The foregoing documents also laid the reasons for the implementation of the *"Anti-Infiltration Campaign"* in Quezon-Bicol and the procedure for its implementation from the arrest, investigation, interrogation, detention and execution of suspected military informants and/or infiltrators. Tabara obtained a copy of these documents when these were handed out by the Central Committee to the intermediate lower party organs in 1984, when she was Secretary of the Negros Island Party Committee. She was also privy to these documents, being an alternate Central Committee member, while holding the highest position in the region with the task of implementing the policies and directives of the Central Committee in her area of jurisdiction.

According to Tabara, the Anti-Infiltration Campaign left much to be desired. The loosely managed national campaign to hunt infiltrators or enemy agents within the ranks and guerrilla bases or *"controlled areas"* was a witch hunt. It triggered paranoia. In worst cases, victims were tortured. Victims were forced to make up stories that led to loss of innocent lives. The failure of the CPP to impose its *"revolutionary political power"* and convert civilians in the communities it regarded as its *"bases"* into a monolith of supporters had led it to accuse many civilians as enemy agents. The adverse effect of the defective policy which led to the loss of thousands of lives nationwide caused the Central Committee to call for a review of the policy. It suspended the campaign in many areas. However, in some areas such as Mindanao and Southern Tagalog, the campaign was continuously implemented until the end of the 1980s.

a. Purging in the Cebu Province

Earl Gonzales Parreno²⁰ was recruited into the CPP-NPA in 1978 while in high school. He quickly rose in rank and became a member of the Cebu

¹⁹ Veronica P. Tabara executed an Affidavit and a Supplemental Affidavit dated March 28, 2006 (Exhibits ZZ & ZZ-1) and October 9, 2006 (Exhibits YY to YY-2), respectively, in Sibulan, Negros Oriental before Atty. Ramy G. Tagnong, both of which she reaffirmed before State Prosecutor Ong on February 10, 2018, in Quezon City. She also executed, together with Gloria Asuncion Jopson-Kintanar, a Supplemental Joint Affidavit, on May 22, 2006, the contents of which were affirmed on May 23, 2006 (Exhibits AAA & AAA-1).

²⁰ The Affidavit of Earl Gonzales Parreno was dated 14 October 2020).

Provincial Committee which was eventually merged with the Bohol provincial Committee to form the Central Visayas Regional Party Committee of the CPP-NPA. He first heard of the anti-infiltration campaign known as the “*Kampanyang Ahos*” or “*Operation Kahos*” during the 1986 plenum of the CPP-NPA Provincial Committee held in Cebu, in 1986, immediately after the EDSA revolution. One of the topics discussed was the request of the Mindanao Commission to the Cebu Provincial Committee to execute cadres from Mindanao who were deployed to Cebu and who were suspected of being deep penetration agents. The cadres identified for execution included Herculano Laguna, Luz Anasco-Laguna, Nida Libre, Jessie Libre, Ben-Art Valmoria. Eusebio “Yoyong” Bardecana, Bobong Orcullo, and Cesar Villadores, among others.

In 1992, Parreno was arrested. When released on bail, he decided to leave the CPP-NPA, citing as reason the growing tension inside the movement. He later joined the Peace Advocates for Truth, Healing and Justice (PATH) which was organized to unearth the truth about the internal problems of the revolutionary movement in the 1980s that led to the anti-infiltration campaigns or the “left purges.” PATH helped survivors come forward, share their stories, and seek justice for the victims and their families. Two exhumation missions in Cebu were initiated by PATH. He was assigned to conduct pre-exhumation investigation. Considering that twenty years had passed since the purging, it took him approximately 6 months to locate the gravesites.

Unearthed in the first gravesite were human remains later identified as those of Jessie Libre, Nida Libre and Ben-Art Valmoria. Another exhumation mission conducted a few months later unearthed the remains of Herculano Laguna and Luz Anasco-Laguna. The exhumations were documented in the television documentary “Frontlines” of the television station, ABC5 News and Public Affairs. Perreno himself briefly appeared in the documentary as a resource person, together with Saturnino Ocampo who admitted to at least four incidents in the infiltration campaign and purging operations conducted by the CPP-NPA-NDF.

b. Purging in Cavinti, Laguna and Mauban, Quezon

Severino Ranuda @ Ka Benjie²¹, joined the CPP-NPA in the latter part of 1985 while employed as a factory worker for “*huri*” in their place. Because he was fatherless and was not well-schooled, he, together with others, (they numbered to a total of 9 recruits), was easily brainwashed by Leopoldo Mabilangan, alias Ka Hector as well as by Hector’s companions – Hector’s wife Ka Lorey, Ka Emil, Ka Lea, and Ka Hasmin. His younger brother Pedrito had joined much earlier. Together with Ka Hector who was the head of the CPP-NPA in Northern Luzon, he met with the townsfolk and discussed political, economic and social issues. By teaching the townsfolk that poverty was caused by

²¹ The affidavits of Ranuda were dated July 1, 1989 and November 3, 2020 (*Exhibits WW to WW-7*).

government and that the poor were neglected by the government, he was able to convince them to join the CPP-NPA

He joined the NPA fighting unit "*Larangan Yunit Guerrilla*" (LYG) operating in the mountains and interiors of barangays Sariaya, Candelaria and Sampaloc in the province of Quezon, and some parts in the province of Laguna. They first underwent training for approximately 2 months in Infanta, Quezon. Their training consisted of conducting ambushes and raids as well as operating the radio and conducting demolition. Their arms were those they had confiscated during their ambushes and raids of military personnel.

Right after he finished training, the *Operation Purga* or *Operation Missing Link* (OPML) was implemented. Allegedly, many infiltrators had found their way into the movement and that he was not to trust anyone inside the organization. He became part of the arresting team, an assignment which he did not particularly like. He however, could not refuse for fear of being suspected as an infiltrator or a spy. The arrests they made were indiscriminate, as they were not preceded by any investigation. Usually, an unexplained change in lifestyle was the only ground for suspicion. A comrade who was able to suddenly afford a television set or a refrigerator immediately becomes target.

Arrests were carried out upon the directive of the Melito Glor Command, then headed by Gemiano Gulaberto alias Claro. It was in Sariaya, Tayabas and Mauban in the province of Quezon, where they arrested 6 of their regular comrades and brought them to Cavinti, Laguna while chained to each other. Upon reaching Laguna, they were not allowed to enter the camp; only the arrested persons were admitted inside. At night, he was unable to sleep at the sounds of pain and torture emanating from inside the camp.

When word got out that the Scout Rangers were approaching, they hurriedly chained all of the arrested persons and moved them to Mauban, Quezon. He was among those who stayed behind to prevent the Scout Rangers from following the group to Mauban. While waiting for the scout rangers to arrive, he entered the camp and saw 12 open freshly dug graves. He estimated that approximately 30 persons were buried inside the camp.

After that incident, they were ordered to arrest four more "Sparrows" in Laguna, which included Apolinario Pabrico alias Ka Puleng. They brought the group to Mauban, Quezon. He later learned that approximately 200 persons had been arrested and that the "purgings" would continue until Christmas.

When two of his companions in the arresting team were also arrested, Ranuda started to think that he might be next. He wanted to leave but was hesitant because everyone was watching everyone. The opportunity came on 06 November 1988, when he was designated the leader of a team of 8 persons tasked to get rice in the barrio. When they reached the barrio, he told his team mates that they were not returning to the camp. The majority of the group

opposed his plan; thus, only he and another comrade, left. On 21 December 1988, Ranuda was arrested by the military.

Ranuda never returned to the movement. He was disillusioned with the infighting and the merciless killing of their numerous comrades on mere suspicion. He learned that there was a standing order to his former comrades to kill him. Much later, he, together with the others, returned to the camp to dig up the graves. They recovered 20 bodies. It was difficult to dig up all the graves because the place was a forested area.

Apolinario Pabrico y Coloma alias “Ka Puleng”²² joined the NPA in in 1986. He was a farmer in barangay Magalolong, Cavinti, Laguna, eking a living in a 1.5 hectare piece of land owned by his brother-in-law Hermi Sacluti, in barrio Boboy, Pagsanjan, Laguna. At that time, he was suspected of being an informer for the military and to assuage his wife’s fears, he decided to become an asset for the NPA. His recruiters – a certain Ka Jade and Ka Tom, both from Manila, invited him to join rallies in the city so that he would see the real “situation.” With their constant indoctrination, he saw that they were correct – Small people barely survived. Farmers like him, and workers were oppressed by the capitalists.

In February of 1986, he became a full-fledged member of the NPA. He left his family and joined the operations in the Relly Area which encompassed the municipalities of Magdalena, Pagsanjan, Sta. Cruz, Pila and Victoria of Laguna. The team leader at that time was a certain Ka Boyet who was replaced in the latter of part of 1987 by Ka Edmund. On 02 October 1988, Ka Edmund summoned him to Kabanbanan, Pagsanjan, Laguna and invited him to go with him to the Municipality of Bae to attend a wedding of their comrades in the NPA. Curious to see what an NPA wedding was like, he accepted the invitation, bringing with him some pieces of clothing and a short firearm. Seven of them, including Ka Edmund left in the afternoon of October 17 and walked their way to Bae. When they reached Bae, they first stopped at a logging house. At 6 o’clock in the afternoon, four persons came to fetch them and told them to leave their short firearms behind. When they reached the river, they saw several persons whom he recognized as their fellow NPA members. They were happy to see them. He saw some *camoteng-kahoy* on the table. He was about to get one when someone announced that they were arresting them because they were deep penetration agents. To their dismay, it was not a wedding that was awaiting them but their arrest in the hands of their comrades.

Unable to do anything, they knelt down with their comrades’ long firearms pointed at them. They were tied to each other, kicked, and slapped. At first he thought it was joke but it slowly dawned on him that their captors were serious. When they asked why were they being arrested, their captors answered – *“Do not ask us. When you reach the top, you will know where you went wrong. We*

²² Sinumpaang Salaysay of Apolinario Pabrico y Coloma dated May 1989, again subscribed and sworn in on 29 September 2020, (*Exhibit VV to VV-27*)

only follow the orders from the higher ups." The arresting team was comprised of 11 persons and was headed by the squad leader Ka Robert, Ka Ariel and Severino Ranuda, also known as Ka Benjie.

They slept tied to each other like dogs. It was a stormy and rainy night but he felt neither the wind nor the rain. He became disillusioned with the organization to which he had become part, and which he thought was the defender of the rights of small people like him. He realized that what was told to him in the beginning was only a beautiful but false propaganda.

By noon of the next day, it was still raining very hard. They received news that military persons were in the Bae area. Upon hearing this, their captors moved them to a sitio in Cavinti, Laguna. After walking for six to seven hours, and crossing a river which was almost neck-deep, they finally reached their destination at 7 o'clock that evening. Their walk was slow because they remained tied to each other.

He and some 30 persons were hanged in chains, their feet dangling above the ground. While suspended, they were slapped, boxed, and their lower clothes removed, including their underwear. Naked female captives were asked to face the male captives. Those who refused were threatened with rape. To spare their female co-captives, he told them to simply face them, with the promise that they will close their eyes. However, when they refused to look at the naked women, their captors hit them. Left with no choice, they looked at the naked women, at which point, their captors would laugh out loud. The women included a certain "Ka Ningning" who was married to Ka Carlo, Ka Cresta and Ka Leny. Pabrica also narrated how the captives were made to provide entertainment to their captors. They were ordered to dance and sing. Males were directed to hug and kiss each other. The females were ordered to sing to the males and to court them, even with their husbands present. They were asked to pick up small leaves, dirt, and even cigarette butts, while chained to each other.

Later they were told they will be taken to "rehab" which, he learned, was a place where they were to be killed. Some five comrades came to fetch the captives by batches. They walked to the mountains. They were hungry but were not given food other than the left over rice. They were tortured until they almost vomited blood. Five days passed but the Task Force comprised of the Melito Glor Command headed by Ka Roger still did not arrive.

His interrogation conducted by three persons stretched to several days. The questioning was abrasive. They were forcing him to admit to being a deep penetration agent. They told him that it was futile to be secretive because they had been monitoring him. He surmised that they suspected him because he was able to freely visit his family as often as three times a week even if there was a military detachment near his house. He explained that he was by nature, good at dealing with people. But they did not believe him and threatened to arrest his wife and children. This time, he realized that despite his sacrifices for movement, it

would only turn against him, and even implicate his innocent family. At their incredulity, he later changed his story and admitted that he had been a deep penetration agent for 4 months. They asked him how much the military was paying him and he answered 200 pesos, later increased to 800 pesos. This time, they believed him. When asked by a certain Eddie Borromeo also known as Ka Aries what his mission as a DPA was, Pabrico answered that his mission was to kill him (“Ka Aries”) to which the latter answered that he was correct in suspecting that the military had a plot against his life.

Tension escalated when word got around that some of them, numbering to about 14, were going to be killed. On the 4th or 5th day, the spouses Satur Ocampo and Carolina Malay came. The spouses asked them about the situation. He told them everything. He denied being a deep penetration agent (“DPA”). He pointed out to the couple that if indeed he was a DPA, why was it that they (Satur and his wife) were unharmed when they sought shelter in Liliw, Laguna, and he was one of their 3 security personnel? The spouses were almost in tears upon hearing his story. They told him that their captors did not follow their instruction, allegedly, there was no instruction, to punish or hurt. The couple assured him that he will be released. They were transferred to another place where they were met with hugs, handshakes, and apologies for what was done to them. Their chains were removed and they were offered delicious food. On December 5, Satur Ocampo and Carolina Malay again summoned him and told him that his father had died a month earlier. He was very angry, and his only thought was how to leave the movement.

c. Purging in Leyte

Glicerio Roluna y Senones²³ also known as “Iking”, “Amado”, “Helen”, “Doni”, “Mike” at “GR”, of Baybay, Leyte and a member of the CPP-NPA from 1980 to 2006, was part of the Arrest and Investigating Team (AIT) of the Anti-Infiltration Campaign known as “Operation Venereal Disease” or “Operation VD” in the 5th District, Leyte, and Southern Leyte.

Sometime in 1980, the Central Committee had issued an alert regarding military spies who had infiltrated the movement. It ordered the Regional Committee to arrest, investigate and mete capital punishment on those proven to be infiltrators. The alert was discussed in the different units of the Regional Committee in Leyte. At that time, the members of the Central Committee of the CPP-NPA-NDF were:

- (a) Jose Maria Sison a.k.a. Joma a.k.a. Amado Guerrero a.k.a. Armando Liwanag;
- (b) Benito Tiamzon @ Celso;
- (c) Wilma Tiamzon @ Ria;

²³ Roluna’s statements were taken in 2006, 25 April 2018 and November 4, 2020, in Tacloban City (Exhibits CC to CC-11).

- (d) Rodolfo Salas @ Bilog;
- (e) Saturnino Ocampo @ Satur;
- (f) Rafael Baylosis;
- (g) Randal Echanis;
- (h) Leo Velasco;
- (i) Vicente Ladlad;
- (j) Prudencio Calubid;
- (k) Luis Jalandoni;
- (l) Sarmiento Eduardo
- (m) Julieta Sison; at
- (n) Adelberto Silva.

In February of 1984, after finishing special courses on demolition where he was taught how to make different kinds of bombs and landmines, he was assigned to the Explosives and Ordinance Team of the Cobra Platoon operating in the area of Inopacan, Leyte. That same year, he was promoted to team leader of the Cobra Platoon. Sometime in 1985, in a meeting held in Baybay, Leyte which was attended by the different leaders and members of District 1 and District 2 of the Leyte Regional Party Committee, the directive of the Central Committee, dubbed *Operation Venereal Disease* or "*Operation VD*" was discussed. Guidelines on the implementation of the operation (*Exhibits EE to EE-17*), issued by the Central Committee, was circulated. Agreed during the same meeting was the organization of the following sub-groups:

- (a) Intel Group – to gather information on members who are suspected traitors and spies of the movement
- (b) Arresting Group – to arrest members identified by the Intel Group as traitors or spies of the movement.
- (c) Investigation Group – to investigate those identified by the Intel Group as traitors or spies of the movement. Investigations can run from 3 days to 1 week, depending on the number of persons to be investigated and the accusations against them.
- (d) Execution Group – to carry out the punishment decided on by the Investigation Group.

In another meeting in barrio in Hindang, Leyte, it was agreed that Mt. Sapang Dako, located in the boundary of Barangay Caulisihan, Inopacan, Leyte, and Monterico, Baybay, Leyte, will be the place where arrested persons will be brought, executed and buried. Mt. Sapang Dako was the logical choice for the operation because it was situated in the middle of a guerrilla mass base and was not easily accessible to the military.

On separate dates in 1985, they brought to Mt. Sapang Dako several persons suspected of being traitors and military spies.²⁴ An investigation was

²⁴ Among those Roluna recalled were brought to, and executed in Mt. Sapang Dako, were the following: Domingo Eras; Leonardo Eras; Gregorio Eras; Erlinda "Bebeng" Rosales; Dionisio Britania; Salvador Britania; Pabling "Puldo" Lugtas; Juanita Aviola; Teodoro Recones; Concepcion Aragon; Restituto Ejoc; Crispin Dalmacio; Zacarias Casil; Ciriaco Daniel; Domingo Napules; Paquito Tronoiva; Carlos Tronoiva; Pablo Daniel; Junior Milyapis; Rolando Vasquez; Domingo Daniel; Franco Daniel; Roman Dedace; Raymundo Dedace; Hing Pulta; Romeo Tayabas; Paul Jomoc; "Ange" Jomoc; Weny Dedace; Isias La Guardia; Felix Capillanes; Ronnie Barcos; Elorde; at Crispin.

conducted by the Investigation Group headed by Exusperado Lloren and Fr. Nick Ruiz. After a hurried trial, they were sentenced to death. It was his group which carried out the grim sentences. Pursuant to the Standard Operating Procedure, executions were made by a swift stab aimed at a particular spot between the left of the neck and the shoulder. They then buried the remains of those whom they executed in Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte.

He remembered clearly the spot where six victims, *i.e.*, Erlinda “Bebeng” Rosales; Puldo; Weny Dedace; Isias La Guardia; Elorde; and Felix Capillanes, were buried. There were still so many others buried in the area but he did not know their names. In the course of his testimony, Roluna identified pictures taken of the gravesites in the different areas in Mt. Sapang Dako (*Exhibits DD to DD-2*).

On the 4th of June in 2006, he was arrested and detained by the military on the basis of a “Warrant of Arrest” issued by the Regional Trial Court of Baybay and Sugod, Southern Leyte. After his arrest, he thought of changing his life and devoting himself to his family. He slowly realized that it was unfair for the CPP-NPA to kill persons, mostly civilians during the height of the “*Operation Venereal Disease*” o “*Operation VD*”. Even Roluna’s own brother, Pastor “Toring” Roluna, also a member of the CPP-NPA was a victim of the operation. The “*Basic Discipline*” taught to them was not followed. As farmers, they were promised their own land to till but no “*genuine land reform*” was achieved despite all they fought for and the sacrifices they made. Later, Roluna returned to the gravesites of some of his victims, particularly those of Erlinda Bebeso, Rosales Pardo, Weng Dedall, Isias La Guardia, Elorde and Felix Capillanes. Pictures of him pointing to these gravesites were also identified by him in court (*Exhibits DD- to DD-2*).

Numeriano Beringuel y Batas²⁵ of Baybay City, Leyte also known as “*Amad*”, “*Mimi*”, “*Ogoy*” at “*Luz*”, corroborated the testimony of Roluna. He added that Satur Ocampo went to Leyte several times and talked to the different leaders to ensure and oversee the implementation of “*Operation VD*”. Later, he learned that Ocampo was arrested.

He was part of the arresting team of the operation. In 1985, their group arrested several persons, numbering about 32 and brought them to Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte.²⁶ All were subjected to an investigation headed by Exusperado Lloren and thereafter, sentenced to death. Beringuel personally witnessed how each of these persons was killed by the

²⁵ Beringuel executed his written statement in 2006 before Atty. George Linde Almaden of Tacloban City (*Exhibits AA to AA-10*) and his present affidavit on November 4, 2020.

²⁶ These persons included - Salvador Britania; Carnoto Lor; Pabling Lugtas; Domingo Eras; Dionisio Britania; Juanita Aviola; Leonardo Eras; Raymundo Dedace; Ronnie Barcos; Concepcion Aragon; Felix Capillanes; Restituto Ejoc; Gregorio Eras; Carlos Tronoiva; Domingo Daniel; Erlinda Rosales; Domingo Napules; Roman Dedace; Hing Pulta; Paul Jomoc; Ange Jomoc; @ Elorde; Weny Dedace; Isias La Guardia; Teodoro Recones; Crispin Dalmacio; Zacarias Casil; Ciriaco Daniel; Paquito Tronoiva; Romeo Tayabas; Franco Daniel; and @ Crispin. According to Beringuel, there were still many others but he could no longer recall their names.

group of Glicerio Roluna. The arrests and the killings continued until he left the movement in 1988. Beringuel also identified several pictures taken of Mt. Sapang, Barangay Caulisihan, Inopacan, Leyte where his comrades were brought to be investigated, executed, and eventually buried (*Exhibits BB & BB-1*). He also identified himself in the pictures.

Floro Tanaid y Manla²⁷ of Barangay Monterico, Baybay, Leyte further testified on the exhumation of human remains in the area conducted on 25 August 2006.

A farmer, Tanaid tilled a piece of land at Mt. Kainsikan near the boundary of Barangay Monterico, Baybay, Leyte, and Barangay Caulisihan, Inopacan, Leyte. Sometime in April of 1985, at approximately 9:00 in the morning, he was at his farm when he saw approximately 15 persons tied to each other with a single rope. He recognized Franco Daniel, Domingo Daniel and Berto Esguerra who were residents of Barangay San Juan, Mahaplag, Leyte and Isias Laguarda, a resident of Barangay Cabungaan, Baybay, Leyte. He also recognized armed members of the NPA – Glicerio Roluna, Policarpio Opo, Romulo Roluna, Arnulfo Opo and Rolando Paniamogan. The latter were bringing the 15 captives towards the direction of Mt. Sapang Dako. Since that day, he neither saw, nor heard of any of the 15 captives.

The following month, on the 2nd of May, at 4:30 in the afternoon, while he was in the market in Barangay Monterico, Baybay, Leyte, he saw a group of NPA members, numbering about 30, abduct his wedding godparents – Domingo Eras and Leonardo Eras. From that day on, neither was seen nor heard of, again.

In June of 1986, he passed by Mt. Sapang Dako on his way to Budlingin in order to hide from the ongoing exchange of fire between the members of the NPA and government troops. He saw freshly-dug graves on the ground. He surmised that the persons who were abducted by the NPA, were buried there. He did not report his discovery due to fear.

Many years later, on 25 August of 2006, at 9:00 in the morning, a group soldiers was passing by and going towards the direction of Barangay Caulisihan, Inopacan, Leyte. He talked to them, particularly Lt. Saya-Ang. In the course of their conversation, he divulged what he had witnessed 20 years earlier. When he told him that the graveyard was only 2 kilometers away, Lt. Saya-Ang asked if he could accompany them there. He did so and in the company of Zacarias Piedad, they reached the place. There, he pointed to Lt. Saya-Ang the graves he had

²⁷ Statement taken on November 4, 2020 (*Exhibits Z to Z-2*). He executed an earlier statement on 14 September 2006 before SPO2 Warlito A. Cardinez at the Sogod Municipal Police Station, Sogod, Southern Leyte (*Exhibits Z to Z-2*), which he later affirmed on 12 February 2018 in Manila. His statement primarily pertained to the human remains which were found buried in the faraway hill in the area of Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte. The mass graveyard was discovered on 25 August 2006.

seen 20 years earlier. Lt. Saya-Ang and his men started digging up the graves and found human bones. The lieutenant thanked him for his assistance. In the course of his testimony, the witness identified pictures (*Exhibits Y to Y-6*) showing him and Zacarias Piedad in the company of Lt. Saya-Ang on their way to Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte.

Zacarias Piedad y Tudas (“Piedad”)²⁸ of Baybay City, Leyte and member of the NPA from 1979 to 1990 and then again in 1998 to 1999, corroborated the testimonies of Roluna, Beringuel, and Tanaid.

He confirmed the testimony of Roluna regarding the meeting among the CPP-NPA leaders in Leyte where the directive of the Central Committee to cleanse the membership of the CPP-NPA from government spies was discussed.

From 1985 until 1987, Piedad witnessed the separate arrests of several persons who were brought to Mt. Sapang Dako,²⁹ and who, upon reaching there, were investigated and eventually executed. Piedad saw Saturnino Ocampo again in 1985 while the latter was overseeing the implementation of Operation VD. When Juanita Aviola was investigated, it was Saturnino Ocampo who directed the group of Exusperado Lloren to impose on her the ultimate penalty of death. In the presence of Saturnino Ocampo, Juanita Aviola was killed by Roluna with a knife. There were also tortures. Piedad saw Norberto Murillo @ Bolit torture a victim by stabbing him with a bayonet on the hands and legs. It was only when the victim was unable to walk that Norberto Murillo finished him off by stabbing him with a knife.

In September of 1999, Piedad finally surrendered to the government. In 2006, he and Floro Tanaid led the military to the graves of the victims of Operation VD in Mt. Sapang Dako. During his testimony, Piedad identified photographs of him and the military men on their way to Mt. Sapang Dako, Barangay Caulisihan, Inopacan, Leyte (*Exhibits Y to Y-2*), pictures of the place where they found the graves of the victims of operation VD (*Exhibit Y-3*); and pictures of the remains of the victims (*Exhibits Y-4 to Y-6*) which they had dug up.

On hindsight, Piedad condemned the arrests and the killings carried out under Operation VD, based as they were only on mere suspicion and with the

²⁸ Gisumpaan nga Gipanulti (Sinumpaang salaysay) of Zacarias Piedad y Tudas dated 14 Seeptember 2006, executed in palo, Leye, Philippines (Exhibit X).

²⁹ Among the persons seen by Piedad as having been brought to Mt. Sapang Dako, and thereafter investigated and executed there were – Pablo Daniel; Nadong Rom; Juanito Rom; Romeo Tayabas; Junior Milyapis; Rolando Vasquez; Cardo Villaber; Salvador Britania; Carnoto “Bugoy” Lor; Pabling Lugtas; Isias La Guardia; Teodoro Recones, Raymundo Dedace; Ronnie Barcos; Domingo Eras; Dionisio Britania; Juanita Aviola; Leonardo Eras; Carlos Tronoiva; Domingo Daniel; Concepcion Aragon; Felix Capillanes; Restituto Ejoc; Roman Dedace; Hing Pulta; Gregorio Eras; Erlinda Rosales; Domingo Napules; Paul Jomoc; Ange Jomoc; Weny Dedace; Crispin Dalmacio; Ciriaco Daniel; Paquito Tronoiva; Franco Daniel; Crispin Dalmacio; Zacarias Casil; Berto Esguerra; Monico Sabalunes; Fredo Sabalunes; at

victims without the opportunity to defend themselves. He was also disheartened that the government did not heed the call for investigation which he once made on television. To date, no investigation was conducted by the Commission on Human Rights (CHR).

He also saw contradictions in the ideologies and ideals taught to them when they first joined the CPP-NPA – “Do not steal; do not hurt others; do not destroy plants; return whatever you borrowed; you not take advantage of women.” However, as members of the movement, they stole cows and carabao. He once joined a bank robbery in Ormoc. He saw people become victims under Operation VD. He saw Ben Torralba took advantage of one “Lina”.

The CPP-NPA also did not fulfil its promises to its members – a land of their own to till, help for their families such as food, clothing, education for their children and hospital expenses. When his cousin Florencio Tudas was killed on 1986, his family received no assistance from the CPP-NPA.

2. Fractions within: Annihilation of the Rejectionists

“Its rejection of more moderate positions of reform and political engagement meant that the Sison-led faction of the CPP retained a militant character unlike its counterparts in many other countries. Those who supported Sison were known as the “reaffirmists” (RAs) and those who were opposed him were the “rejectionists” (RJs). The fragmentation of the movement along these lines continues to reverberate today (*The Communist Insurgency in the Philippines: Tactics and Talks Crisis Group Asia Report N°202, 14 February 2011*).

Veronica P. Tabara³⁰ of Dumaguete City, Negros Oriental and once a leading member of the CPP-NPA from from 1973 to 1988, testified on the killing of her husband Arturo Tabara, a known member of the rejectionist faction. Arturo was part of the Visayas Commission which was tasked to lead the work of the CPP-NPA-NDF in the Eastern and Western Visayas regions. The Commission ceased to exist when her husband and few other members of the Visayas Commission were arrested by government security forces in 1982.

After the purging, cracks and factions within the movement became apparent. In 2004, her husband Arturo Tabara who, like her, was also a recruit from Silliman University and a regular member of the Central Committee was killed by CPP-NPA “reaffirmists.” As one of the leaders of the “rejectionists” faction, Arturo refused to follow the directive of Jose Maria Sison *a.k.a.* Armando

³⁰ Veronica P. Tabara executed an Affidavit and a Supplemental Affidavit dated 28 March 2006 (Exhibits ZZ & ZZ-1) and 9 October 2006 (Exhibits YY to YY-2), respectively, in Sibulan, Negros Oriental before Atty. Ramy G. Tagnong, both of which she reaffirmed before State Prosecutor Ong on 10 February 2018, in Quezon City. She also executed, together with Gloria Asuncion Jopson-Kintanar, a Supplemental Joint Affidavit, on 22 May 2006, the contents of which she reaffirmed on 23 May 2006 (Exhibits AAA & AAA-1).

Liwanag as contained in the document *“Reaffirm Our Basic Principles and Rectify The Errors.”* As was decided by the Central Committee under the leadership of Sison, ideas of *“rejectionists”* were unacceptable. Leaders of the rejectionist faction were expelled based on false charges and were eventually executed. Arturo Tabara’s execution was admitted by the CPP in its official publication, *“Ang Bayan”* (See October, 2004 issue, Vol. XXXV. No. 19, Exhibit CC to CC-9).

Presently, Veronica Tabara is the Chairperson of the Rebolusyunaryong Partido ng Manggagawa ng Pilipinas - Revolutionary Proletariat Army/Alex Bongcayao Brigade (*RPMP-RPA/ABB*), a rejectionist group that has split from the CPP-NPA-NDFP and has entered into a peace agreement with the government. It is now strengthening itself as a legitimate socio-political organization.

B. Atrocities to Civilians

1. The Plaza Miranda Bombing (1971)

One of the earliest known acts of violence against civilians which was attributed to the CPP-NPA was the bombing incident during the Liberal Party Miting de Advance in Plaza Miranda in Quiapo, Manila, which later became known as the “Plaza Miranda bombing of 21 August 1971.”³¹ The Court’s only witness account on the incident came from witness Ruben B. Guevarra. His account, while circumstantial, was meant to establish the CPP-NPA as the author of the atrocity.

A few days before the incident, on 19 August 1971, Guevarra had left Isabela for Manila. The next day, August 20, he wrote a letter to Noli Collantes informing the latter that he was in Manila and that he wanted to talk to Jose Maria Sison. At about noontime, Noli Collantes and one “Kumander Pusa” arrived. Collantes told him that he had already relayed his letter-request to Sison but that because Sison was busy with too many appointments, he can meet him the next day instead. The following day, he and Collantes went to the house of spouses Roque Magtanggol and Mila Aguilar in BF Homes, Paranaque to meet Sison. They were greeted by Herminigildo Garcia IV who told him to wait for a while because Sison was in a meeting. After a few minutes, Monico Atienza came down (presumably from the upper floor of the house) and signalled him (Guevarra) to come up. Guevarra saw that Sison was giving three young people strict instructions about an important mission. Thereafter, he and Sison briefly talked in the presence of Atienza. After their conversation, Sison left, but not before telling Atienza to tell to him, as the representative of the Military Commission, of the plan to bomb the big meeting of the Liberal Party. The

³¹ The testimony of Ruben Guevarra was contained in his judicial affidavit dated 14 October 2020, which was also largely based on earlier affidavits he had executed, dated 15 January 2003 at the General Headquarters of the AFP, Camp General Emilio Aguinaldo, Quezon City which was annexed to, and formed part, of Guevarra’s present judicial affidavit.

bombers were to be sent to him in Isabela. The bombers should not stay long in their first accommodation in the *poblacion* but should be immediately brought to the forest region, to be strictly guided and to be taught the ideology. After relaying this message, Atienza told him it might be best for him to return to Isabela. After he left, at about 9 o'clock that evening, the entire nation was reeling with the news of the bombing.

Early the next morning, while preparing for his trip back to Isabela, some members of the staff of Monico Atienza came bringing his requested books and documents. Also handed to him was a letter from Atienza warning him against revealing the involvement of the CPP-NPA in the Plaza Miranda bombing. Allegedly, only a very few members of the organization knew about it. Anyone who would divulge the secret was to be severely punished.

A few days later, on 26 August 1971, a member of the National Liaison Commission brought to him in Cauayan, Isabela the same three young men whom he saw talking to Sison at the Paranaque residence of the Magtanggol couple. He remembered their names – Danny Cordero, Cecilio Apostol who was an activist from the Caloocan, and one “Ka Daniel”, a student of the Philippine College of Criminology who lived in San Andres Bukid, Manila. All three young men confirmed to him their involvement in the grim incident. In the middle of the month of June, 1972, Danny Cordero, also known as Ka Cris was brought to him as head of the Military Commission due to an accusation that Cordero had sabotaged “*Oplan Igpaw*” by attempting to wrest the leadership of the Northern Luzon Regional Party Committee or the Northern Luzon Regional Operational Command. Cordero was also accused of divulging his participation in the Plaza Miranda bombing under the directive of Sison. These leaks in information were feared to have damaged the prestige of the CPP-NPA. Cordero confirmed to the Commission his participation in the bombing and even dared those who carried out the bombing with him to come forward and admit to it. Witness Guerrero knew this because he himself headed the Commission.³²

Guerrero explained that “*Oplan Igpaw*” was the operation to secure from the Communist Party of China a supply of strong automatic rifles. Guevarra’s personal knowledge of “*Oplan Igpaw*” stemmed from his being part of the Central Committee and of the Military Commission for Northern Luzon. He was also personally designated by Jose Maria Sison to head all NPA units which will implement the operation. When he was arrested in 1981, and stood trial before the military commission headed by Commodore Fernandez, Guevarra, together with Sison, Bernabe Buscayno, Fidel Agcaoili and Satur Ocampo were asked about *Oplan Igpaw*.

³² The other members of the Commission were Magtanggol Abreu representing the NLRPC and NLROC, Elizabeth Principe representing the party and the Regional Medical Bureau, Hermogenes Pagsulingan representing the Party and the Army; Marcelino Cadiz representing the Party and the central leadership of the region, Luzviminda Sarol representing the Party and the central leadership, Ka Greg representing the branch of the party in the first red campaign and Mario Dela Cruz representing the party and the leadership of the Jonas Echaugue platoon.

Guevarra cited the Plaza Miranda bombing as an illustration of how the CPP created a condition that justified Chinese assistance. The bombing achieved its purpose of demonstrating to China that CPP-NPA was making headway and that revolutionary conditions were rife in the Philippines. Allegedly, demonstrating to China its viability as a party, or its ability to launch a significant attack was a condition the CPP-NPA had to meet to be able to obtain the much-needed aid from the Chinese.

This was also the scenario created by the CPP-NPA on other occasions such as when they attacked the Advance Command Post of the *Task Force Lawin* in Barrio Suyong in Echauga, Isabela on 26 September 1971, during which, they destroyed two Huey helicopters of the Armed Forces of the Philippines (AFP), two light aircraft owned by one Alfredo Gomez and caused serious injuries to three soldiers. The attack was led by Guevarra himself upon the direct order of Sison.

After the foregoing incidents, illegal firearms from China found their way into the country through *MV Karagatan*. Unfortunately, a storm caused *MV Karagatan* to drag against the coral reef of Digoyo Point, Isabela. The dragging created a hole on the ship causing it to slowly sink. Before the boat totally sank and before the soldiers arrived, they were able to retrieve a few of the arms. Most of the arms were later confiscated by the military. Guevarra knew this because he was the one tasked by Sison to unload the firearms from the ship.³³

2. More recent attacks against civilians

Witness Police Lieutenant Colonel Al F. Paglinawan³⁴ is from the Directorate for Investigation and Detective Management (*DIDM*), Camp Brigadier General Rafael T. Crame, Quezon City which is tasked to assist and advise the Chief of the Philippine National Police (CPNP) in the direction, control, coordination and supervision of the investigation of all crime incidents and offenses in violation of the laws of the Philippines. Paglinawan's assignment to the DIDM's Case Monitoring Division (CMD) which monitors heinous and sensational cases nationwide gives him access to investigation reports submitted by police regional offices. CMD is also designated as the Secretariat of the PNP Committee on Legal Action (COLA) pursuant to PNP Letter of Instruction 55/09 (PNP COLA) dated July 27, 2009.

³³ Guevarra also confirmed that he saw a video of a television documentary titled "*Victor Corpus – Plaza Miranda bombing*." He knew Victor Corpus as a former member of the CPP-NPA and confirmed everything that Corpus said in the video regarding the bombing of the Liberal Party Miting de Abanse on 21 August 1971. Guevarra when also shown the video entitled "*I-Witness: Ang Pagbabalik sa Karagatan*", a documentary of Howie Severino, confirmed that the documentary was about the arrival of the *MV Karagatan* and how Victor Corpus came to meet the boat at Digoyo Point in Isabela. The video however, missed to include in its account, the heavy storm which had caused the boat to drag against the coral reef and to eventually sink.

³⁴ The testimony of Paglinawan is contained in a Judicial Affidavit he had executed on the 19th day of July 2021, in the Diliman, Quezon City, Philippines before State Prosecutor Peter L. Ong.

PNP COLA ensures the advancement of legal action efforts against atrocities committed by various Threats to National Security Groups (TNSGs) including the Communist Terrorist Groups (CTGs). As the Secretariat of the PNP COLA, CMD monitors all acts of atrocities committed of the CTGs and the arrest of CTG personalities. At the witness stand, Officer Paglinawan identified documents evidencing these atrocities committed by the Communist Terrorist Group against civilians, particularly, within the period of 2019 to 2020 (*Exhibits EEE to PPPPPP*). These incidents are as follows, viz.,

- i. The 31 December 2019 killing of Bontola Mansinugdan, Agusan del Sur;
- ii. The 19 March 2020 killing of Datu Astudillo and Zaldy Ibañez, Sitio Inadan, Barangay Magroyong, San Miguel, Surigao del Sur;
- iii. The October 4, 2020 ambush of Datu Jumar Bucales and company at Sitio Mamprasanon, Barangay Banahao, Lianga, Surigao del Sur;
- iv. The July 6, 2020 killing of Datu Jomar Engayas, at Sitio Sangay, Barangay Libas-sud, San Miguel, Surigao del Sur;
- v. The October 16, 2020 failed attempt to kill DepEd Teacher Eli Apacible, at Purok Hitaon, Barangay Awasian, Tandag City, Surigao del Sur;
- vi. The August 13, 2020 killing of 70-year-old Datu Benedicto Dinoy, at Dumalaguing Village, Impasugong, Bukidnon;
- vii. The May 28, 2020 burning of chapel and residential houses, in Barangay Limunda, Opol, Misamis Oriental;
- viii. May 30, 2019 abduction of seven civilians, including Ryard Badiang who was later beheaded, in Barangay Maitum, Tandag City, Surigao del Sur;
- ix. The July 21, 2020 killing of Datu Saidor Balansi, at Sitio KM 18, Barangay Besigan, Cagayan de Oro City.

The foregoing incidents were testified on by actual eyewitnesses. Documents pertaining to two other incidents – particularly, the 05 June 2016 ambush of the six (6) members of Datu Bucalas' family, including three (3) minor children and his 8-month pregnant wife who were killed at Taguikan, Creek, Brgy Binicalan, San Luis, Agusan del Sur as well as the 09 July 2020 liquidation of Datu Paquito Maca Badiang at Himat-e, Brgy. Cayale, Tago, Surigao del Sur, were also indentified. However, these incidents were not testified to by eyewitnesses.

Officer Pinaglinawan likewise provided documents on the following incidents:

- i. The October 3, 2017 ambush of PNP personnel and civilians, at Sitio Buta, Barangay Caliling, Cauayan, Negros Occidental;
- ii. The November 9, 2017 ambush of PNP personnel at Km. 28 of the Cagayan De Oro-Dominorog-Kalilangan Road, Barangay Tikalaan, Talakag, Bukidnon;
- iii. The December 2, 2017 ambush of PNP personnel, at Sitio Binuang, Barangay Daguit, Labo, Camarines Norte;
- iv. The December 16, 2017 ambush of personnel of the 20th Infantry Battalion, Philippine Army, who were conducting humanitarian assistance and disaster response operations to victims of tropical storm “Urduja”, at Barangay Hinagoyonan, Catubig, Northern Samar.

The foregoing four (4) incidents of attacks against the military, while supported by documentary evidence identified by Paglinawan, were not testified to by eyewitnesses.³⁵

The testimony of Officer Paglinawan was corroborated by Police Major General Alfred Corpus, Director of the Directorate for Operations (PNP-DO). Corpus confirmed that documents evidencing these incidents of atrocities committed by the CPP-NPA were obtained by their office from the different PNP offices in various regions all over the country. Officer Corpus likewise issued a Certification that these incidents or atrocities, among numerous other incidents or atrocities, perpetrated by the CPP-NPA, had sown and created a condition of widespread and extraordinary fear and panic among the populace with the purpose of achieving the CPP-NPA’s political objective of overthrowing the Philippine government or of seizing power from the duly constituted authorities through violence and armed struggle. When asked of the basis for his Certification, the witness answered that the incidents and atrocities mentioned had occurred throughout the Philippines and were committed pursuant to the 2016 Constitution and the “Program for a People’s Democratic Revolution”, which outlined the organizations’ aims, among which, is to –

³⁵ On the 3 October 2017 ambush of PNP personnel and civilians, at Sitio Buta, Barangay Caliling, Cauayan, Negros Occidental, the 3-page Resolution finding probable cause, and an information should be filed, marked as Exhibits MMMMMMMM to MMMMMMMM-2; On the November 9, 2017 ambush of PNP personnel at Km. 28 of the Cagayan De Oro-Dominorog-Kalilangan Road, Barangay Tikalaan, Talakag, Bukidnon, the 2-page Resolution finding probable cause, and an information filed, marked as Exhibits NNNNNNNN to NNNNNNNN-1; On the 2 December 2017 ambush of PNP personnel, at Sitio Binuang, Barangay Daguit, Labo, Camarines Norte, the 3-page Resolution finding probable cause, and separate informations filed, marked as Exhibits OOOOOOOO to OOOOOOOO-2; On the 16 December 2017 ambush of personnel of the 20th Infantry Battalion, Philippine Army, who were conducting humanitarian assistance and disaster response operations to victims of tropical storm “Urduja”, at Barangay Hinagoyonan, Catubig, Northern Samar, the one-page resolution that an information filed in court, marked as Exhibit PPPPPPPP;

“Expand and intensify the tactical offensives (ambushes, raids, arrests, sabotage and other operations) against the regular, police and paramilitary forces of the Armed Forces of the Philippines, capture and accumulate military equipment and bring the stage of the strategic defensive to the stage of strategic stalemate and further on to the stage of the strategic offensive” (see *Exhibit HHHHHH-90*).

Furthermore, the atrocities committed by the CPP-NPA fell within the mandated duty of the PNP to maintain peace and order and public safety.

The incidents enumerated in the records of the PNP pertaining to atrocities to civilians testified on by PNP Officers Paglinawan and Corpus, were further testified on by actual witnesses, as follows:

i. The kidnapping of Bontola Mansinugdan and his son Lowee Ban-Alan Mansinugdan and the violent killing of Bontola Mansinugdan, members of the Higaonon Tribe, Agusan del Sur, (2019)

Donato Mansinugdan³⁶ of the Higaonon Tribe and a resident of Kimaybay, Esperanza, Agusan del Sur testified that on the 31st of December 2019, his son Bontola Mansinugdan and grandson Lowee Ban-Alan Mansinugdan left to hunt in the forest of Kinabonglohan, Esperanza, Agusan del Sur. The two did not return that day. By the 1st of January 2020, they were already frantic with worry. At lunchtime, his grandson Lowee arrived crying. Lowee told them that the NPA blocked their way, tied their hands with nylon and dragged his father towards the stream where they violently killed him.

Upon hearing the grim news, they went to the place to recover his son’s body. When asked who could have done the dastardly act, Mansinugdan answered that it could only have been the NPA as they were the only armed group in their place. He felt pity for his grandson Lowee who, at a young age, had witnessed his own father cruelly killed before his eyes.

Lowee Ban-Alan Mansinugdan³⁷ 11 years old confirmed the testimony of his grandfather.

On the 31st of December 2019 he and his father Bontola Mansinugdan were hunting in the forest of Kinabonglohan, Esperanza, Agusan del Sur when approximately 30 armed members of the NPA blocked their way. Pointing their guns at them, they ordered his father to kneel down while they tied his hands behind his back with nylon rope, like a pig. They then separated them – he was taken to a hut guarded by two armed women. He did not know where they took

³⁶ Judicial Affidavit of Donato Miansinugdan was executed on 10 February 2021.

³⁷ Lowee’ Mansinugdan’s Statement was taken on the 10^h day of February, 2021 (*Exhibit NNNNNN to NNNNNN-4*).

his father. That night he was unable to sleep for fear of what they would do to them. Soon it was morning. He then noticed that several armed NPA members were preparing to leave. Suddenly, he heard a gunshot. He suddenly panicked guessing that they had shot his father.

Thereafter, the armed persons told him to go home because his father was already dead. As soon as he was certain that they had already left, he hurriedly looked for his father. He found his father's body covered with leaves. He removed the leaves and saw his father's bloodied head. He tried to rouse his father but he was not anymore breathing. He ran home in shock. He told his grandfather and his uncle what had happened. The following day, he and several members of their family went to the place where he had last seen his father's body. Because the place was far and his father's corpse was already smelling, they decided to bury him in the same place where they found him.

He knew that the armed men were members of the NPA based on their appearance, particularly their manner of dress. They were also carrying high-powered firearms. While they were blocking their way, and thereafter tying them, they accused his father of guiding military men through the forest.

ii. The killing of Datu Bernardino Montenegro Astudillo and Zaldy Ibanez at Sitio Indanan, Barangay Magroyong, San Miguel, Surigao del Dur, March 19, 2020

Alvin Agilo Astudillo ³⁸, of Purok 7, Sitio Inadan, Barangay Magroyong, San Miguel, Surigao Del Sur testified on the killing of Datu Bernardino Montenegro Astudillo, 73 years old, head of the Manobo tribe and Zaldy Ibañez, 52 years old, both of Sitio Inadan, Barangay Magroyong, San Miguel, Surigao del Sur.

On the 19th of March 2020, at around 7:00 that night, Astudillo was home when he heard a commotion inside the house of Zaldy Ibañez which was just across his own house. After a while, he heard Zaldy begging for mercy and asking for help. He peeped through the window and saw approximately 15 NPA members all armed with M-14 or AK. They surrounded Zaldy's house and forcibly dragged Zaldy outside. Oblivious to Zaldy's and Zaldy's family's pleas, they continued to box, kick and hit him with the butt of their firearms. When Zaldy was already lying half-conscious on the ground, they repeatedly struck him with a bolo in the different parts of his body until he was dead.

Fearful of getting involved, Astudillo waited for the armed men to leave. Not long after, he heard a commotion in the nearby house. As it turned out, after killing Zaldy, the NPA members had proceeded to the house of Datu Bernardino. As Datu Bernardino was already 73 years old, it was easy for them to drag him outside his house. Datu Bernardino's son and grandson, Fernando Limpot

³⁸ Astudillo executed his "*Judicial Affidavit*" on 21 March 2020 in San Miguel, Surigao del Sur.

Astudillo at Jonathan Diaz Astudillo soon arrived and learned of the abduction. He accompanied them to the kapitan of their place and to the police of San Miguel, Surigao del Sur to report the incident. He also told the authorities what he saw. The next day, the 20th of March 2020, at 7:30 in the morning, the dead body of Datu Bernardino was found riddled with bolo marks by a creek in Sitio Mahaplag.

They had lost a good Datu. Datu Bernardino had always fought for the rights of their tribe and other members of other indigenous groups in their place. When asked if he knew why the NPA had killed Datu Bernardino and Zaldy Ibañez, Astudillo answered that it was because both were leaders of the Manobo tribe. Their killing was meant to sow fear among the people of Sitio Inadan, Barangay Magroyong, San Miguel, Surigao del Sur and threaten them with the same fate should they also support or help the government.

The 19 March 2020 killing of Datu Astudillo and Zaldy Ibañez is presently the subject of a criminal complaint as evidenced by documents identified and introduced in evidence by Officer Paglinawan.³⁹

iii. The killing of Datu Jumar Bucales, Surigao Del Sur, October 4, 2020

Oliver T. Rosaldo⁴⁰ of P-3 Barangay Ganayon, Lianga, Surigao del Sur, testified on the 04 October 2020 ambush at Sitio Mamprasanon, Barangay

³⁹ PNP Investigation Report dated 20 March 2020, consisting of four (4) pages, marked as Exhibits FFFFFFF to FFFFFFF-3; PNP Case Referral Letter dated 23 March 2020 addressed to the Office of the Provincial Prosecutor, Surigao del Sur, consisting of one (1) page, marked as Exhibit FFFFFFF-4; PNP Spot Report dated 19 March 2020, consisting of one (1) page, marked as FFFFFFF-5; PNP Progress Report dated 20 March 2020, consisting of one (1) page, marked as Exhibit FFFFFFF-6; Two (2) photographs of the cadaver of Zaldy Ibañez, consisting of one (1) page, marked as Exhibit FFFFFFF-7; Three (3) photographs of the cadaver of Datu Bernardino Montenegro Astudillo, consisting of one (1) page marked as Exhibit FFFFFFF-8; PNP Final Report dated 25 March 2020, consisting of one (1) page, marked as Exhibit FFFFFFF-9; Copy of the Death Certificate of Datu Bernardino Montenegro Astudillo, marked as Exhibit FFFFFFF-10; Post Mortem Examination Report No. 51 dated 20 March 2020 issued by Municipal Health Office of San Miguel, Surigao del Sur, consisting of one (1) page, marked as Exhibit FFFFFFF-11; Amended Joint Resolution in NPS Doc. No. XIII-07-INV-20C-00071 and XIII-07-INV-20C-00072 dated 18 June 2020, consisting of four (4) pages, marked as Exhibits FFFFFFF-12 to FFFFFFF-15; Joint Resolution in NPS Doc. No. XIII-07-INV-20C-00071 and XIII-07-INV-20C-00072 dated 22 April 2020, consisting of six (6) pages, marked as Exhibits FFFFFFF-16 to FFFFFFF-21; Complaint Affidavit executed by Police Major Elvie V. Dedicatoria dated 23 March 2020, consisting of four (4) pages, marked as Exhibits FFFFFFF-22 to FFFFFFF-25; Sworn Affidavit executed by Mark Ambungan Astudillo dated 26 March 2020, consisting of six (6) pages, marked as Exhibits FFFFFFF-26 to FFFFFFF-31; Sworn Affidavit executed by Cheryl Canoy Dalaguan dated 26 March 2020, consisting of four (4) pages, marked as Exhibits FFFFFFF-32 to FFFFFFF-35; Supplemental Affidavit executed by Cheryl Canoy Dalaguan dated 4 June 2020, consisting of seven (7) pages, marked as Exhibits FFFFFFF-36 to FFFFFFF-42; Sworn Affidavit executed by 1LT Ariel O Sajulan dated 27 March 2020, consisting of three (3) pages, marked as Exhibits FFFFFFF-43 to FFFFFFF-45; Sworn Affidavit executed by Datu Rico H. Maca dated 26 March 2020, consisting of four (4) pages, marked as Exhibits FFFFFFF-46 to FFFFFFF-49; Sworn Affidavit executed by Leonardo Hijara Alias "Nardz" dated 4 April 2020, consisting of three (3) pages, marked as Exhibits FFFFFFF-50 to FFFFFFF-52; and, Certification issued by General Station Manager of the VTP Broadcast Venture, Inc. dated 4 April 2020 with excerpts from the 21 March 2020 interview of Sandara Sidlakan, the Deputy Secretary of North Eastern Mindanao Regional Committee, consisting of four (4) pages, marked as Exhibits FFFFFFF-53 to FFFFFFF-56.

Banahao, Surigao del Sur, by members of the NPA. The ambush resulted to the deaths of Datu Jumar Bucales, Artemio Moldez and Alberto Dela Peña, and injuries to their two other companions. According to Rosaldo, he and Datu Jumar Bucales left their place at 7:00 in the morning on board two motorcycles – they were on their way to Barangay San Isidro, Lianga, Surigao del Sur to attend an Indigenous Peoples' (IP) meeting. Ronald Acevedo drove the red Honda TMX motorcycle that Datu Jumar Bucales and Artemio Moldez were riding on. On board the second blue Skygo motorcycle driven by Alberto Dela Pena were the witness Rosaldo, Ronald Bucales and Sonny Boy Bucales.

The meeting lasted until 12:45 in the afternoon. On their way home, they were suddenly ambushed by members of the NPA who were using high caliber guns. The suddenness of the attack caused their motorcycles to skid. They were thrown off to the side of the road. The driver of their own motorcycle was bloodied, Rosaldo crawled to the side of the road and from there, saw the armed men who were shooting at them. He recognized some of them as his former neighbors who went up the mountains to join the NPA. He saw them kick and hit Datu Jumar on the head with the butt of their firearms. One of them said, "*Maayo ra na sa imo*" (You deserve that!). After hitting him, they shot him on the head and on the different parts of his body.

He wanted to help his friend but due to fear, he remained in his hiding place. After the armed men were certain that Datu Jumar was dead, they left and went towards the southwest direction going to Barangay San Isidro. He continued hiding until the soldiers came. A bullet had hit his right leg and he found it difficult to walk.

Ronald M. Bucales⁴¹, of Barangay St. Christine, Lianga, Surigao del Sur corroborated Rosaldo's testimony and confirmed the ambush on 04 October 2020, at around 1:00 o'clock in the afternoon while they were passing Sitio Mamprasanon, Barangay Banahao, Surigao del Sur. Members of the NPA rained bullets on their vehicles. He also saw the NPA members kick and hit Datu Jumar and thereafter shot him at close range.

He was certain that their attackers were NPA members. The ambush was made in broad daylight so he was able to clearly see them – their black attire, their boots and their high powered firearms. Also, the NPA had issued death threats to Datu Jumar long before the incident. Two years earlier, on 12 December 2018, Datu Jumar was also ambushed by the NPA in Sitio

⁴⁰ Rosaldo executed "*Judicial Affidavit of Witness*" dated October 2020 in Lianga, Surigao Del Sur, marked as Exhibits ZZZZZZ to ZZZZZZ-7.

⁴¹ Ronald M. Bucales executed a "*Joint Judicial Affidavit of Witness*" with Sonny Boy S. Bucales and Ronald M. Bucales dated 16th of November 2020 in Lianga, Surigao Del Sur, marked as Exhibits WWWWWW to WWWWWW-7 as well as another affidavit bearing the same date marked as XXXXXX to XXXXXX-7; YYYYYYY to YYYYYY-4.

Mamprasanon during which he sustained a bullet wound. Bucales surmised that Datu Jumar may have earned the ire of the NPA because he was its very vocal critic.

The accounts of Oliver T. Rosaldo and Ronald M. Bucales regarding the ambush incident was also corroborated by Ronald S. Acevedo and Sonny Boy S. Bucales whose statements were contained in “*Joint Judicial Affidavit of Witness*” executed on the 16th of November 2020 in Lianga, Surigao del Sur (*Exhibits WWWWWW to WWWWWW-7*).

The 4 October 2020 ambush of Datu Jumar Bucales and company at Sitio Mamprasanon, Barangay Banahao, Lianga, Surigao del Sur was further corroborated by documentary evidence identified by Officer Paglinawan in connection to the criminal complaint filed by the office of the provincial prosecutor of Surigao del Sur pertaining to the incident.⁴²

iv. The killing of Datu Jomar Ignacio Engayas, Surigao del Sur, July 6, 2020.

Jimboy Ignacio Engayas⁴³ of P-2, Pag-asa, Barangay Libas Sud, San Miguel, Surigao del Sur testified in court in the hopes of obtaining justice for the violent death of his brother, Jomar Ignacio Engayas, of Purok 2, Pag-asa, Barangay Sud, San Miguel, Surigao del Sur. The incident happened at 4:30 in the afternoon of 06 July 2020, in Sitio Tangay, Barangay Libas Sud, San Miguel, Surigao del Sur.

The witness recounted that they were working in the “koprahan” when armed NPA members arrived. They were surprised and immediately felt fear, especially when they called the name of Jomar. They pulled Jomar towards another place which was not far. They saw them point a gun at Jomar while the

⁴² PNP Investigation Report dated 7 October 2020, consisting of three (3) pages, marked as Exhibits LLLLLLL-1 to LLLLLLL-2; PNP Case Referral Letter dated 7 November 2020 addressed to the Office of the Provincial Prosecutor, Surigao del Sur, consisting of two (2) pages, marked as Exhibits LLLLLLL-3 to LLLLLLL-4; PNP Spot Report dated 4 October 2020, consisting of two (2) pages, marked as Exhibits LLLLLLL-5 to LLLLLLL-6; PNP Progress Report dated 4 October 2020, consisting of one (1) page, marked as Exhibit LLLLLLL-7; PNP Second Progress Report dated 20 November 2020, consisting of two (2) pages, marked as Exhibits LLLLLLL-8 to LLLLLLL-9; Complaint Affidavit executed by Police Captain Johncel B. Barrameda dated October 2020, consisting of three (3) pages, marked as Exhibits LLLLLLL-10 to LLLLLLL-12; Complaint Affidavit executed by Alexander S. Bucales dated 15 November 2020, consisting of seven (7) pages, marked as Exhibits LLLLLLL-13 to LLLLLLL-19; Sworn Affidavit executed by Zay-I Bucales Cuarteron dated 16 November 2020, consisting of four (4) pages, marked as Exhibits LLLLLLL-20 to LLLLLLL-23; Sworn Affidavit executed by Jonie S. Rivas dated October 2020, consisting of five (5) pages, marked as Exhibits LLLLLLL-24 to LLLLLLL-28; Death Certificates of Datu Jumar Bucales, Alberto Dela Peña, and Artemio Moldez, marked as Exhibits LLLLLLL-29 to LLLLLLL-31, respectively; Seven (7) photographs of the crime scene and of the cadaver of the victims, consisting of two (2) pages, marked as Exhibits LLLLLLL-32 to LLLLLLL-33; Medico Legal issued by the Lianga District Hospital on the cadaver of Datu Jumar Bucales, Alberto Dela Peña, and Artemio Moldez, marked as Exhibits LLLLLLL-34 to LLLLLLL-36, respectively; After SOCO Report dated 4 October 2020, consisting of three (3) pages, marked as Exhibits LLLLLLL-37 to LLLLLLL-39; and, Letter Invitation dated 29 September 2020 sent by Datu Benjamin Alvizo to the attendees of the 4 October 2020 meeting, marked as Exhibit LLLLLLL-40.

latter was kneeling on the ground and begging for his life. They struck Jomar at the nape of the neck and when his brother fell to the ground, they fired at him twice. The two shots were followed by a singular shot which they took to be a warning to them. He heard one NPA member say, *“Let us go; he is dead.”*

With the help of one Lyndon Sabiaga, they brought Jomar’s body to their place at Libas Sud, San Miguel, Surigao del Sur. He relayed the news to his brother Jemson and reported the incident to their Barangay Captain Charlito M. Intas.

Engayas pointed to the members of the NPA as his brother’s killers. He was certain of this because they had introduced themselves as members of the NPA. Moreover, he was familiar with them because they always passed by their place carrying high powered firearms and dressed in black garments. When asked for the possible reason why the NPA killed his brother, Jimboy Engayas answered that his brother’s killing was meant to send a warning to everyone who opposed the presence of the NPA in the area. He felt fear and suffered trauma. He worried that he or his family will be their next target.

Jemson Ebay Engayas,⁴⁴ of the Manobo tribe and a resident of Purok 2, Barangay Castillo, San Miguel, Surigao del Sur partially corroborated the testimony of his brother Jimboy Ignacio Engayas. He confirmed that his brother Jimboy called him up while heavily sobbing at the other end of the line and relayed to him what had happened. Fear was obvious in his brother’s voice. Upon hearing the news, he called up another brother, JR so they could bring Jomar’s body to their residence at P2 Pag-asa, Barangay Libas Sud, San Miguel, Surigao del Sur.

Jemson added that he and his brothers were once members of the NPA. The NPA members who killed his brother were once their comrades. They were also familiar with them because they always passed through their place carrying powerful firearms and dressed in an all-black attire. During their time with the movement, they were tasked to kill other tribal leaders or members of indigenous tribal groups, politicians, rebel returnees, businessmen, and civilian military supporters such as barangay chairmen who did not support the NPA.

JR Engayas, another brother of the slain Jomar Engayas partially confirmed the testimonies of his brothers regarding the circumstances of the killing of Jomar. He confirmed that he accompanied Jemson to the place of the incident in order to get the body of Jomar and bring it to their residence. Like his brothers, he was once a member of the NPA who was tasked to kill tribal leaders, members of indigenous tribes, politicians, rebel returnees, businessmen and civilian supporters, including the Barangay Kapitan who did not support the

⁴⁴ The witness executed a *“Joint Judicial Affidavit”* with JR Engayas dated 04 August 2020 (*Exhibits 000000 to 000000-2*) and another Judicial Affidavit dated 10 February 2021 executed before Prosecutor Peter L. Ong.

movement. JR believed that Jomar's death was meant to be a threat and a warning to those who withhold their support for the NPA. He knew this because when they were still members of the NPA, they were ordered to kill those who did not support the movement as well as former members who had left the group.

Lyndon Dapar Sabiaga⁴⁵, a farmer and a resident of P-2 Pag-asa, Barangay Libas Sud, San Miguel, Surigao del Sur, was also an eyewitness to the killing of Jomar Engayas. Like Jemson, he shared the belief that the killing was carried out by the members of the NPA in their place primarily because Jomar's killers had introduced themselves as such and secondly because they always passed by their place, attired in black and holding high powered firearms. He also believed that Jomar's death was meant to be a warning against those who defy the movement.

The 06 July 2020 killing of Datu Jomar Engayas, at Sitio Sangay, Barangay Libas-sud, San Miguel, Surigao del Sur was further evidenced by documents identified by Officer Paglinawan.⁴⁶

v. The shooting of Eli Curacho Apacible, school principal of Hitaob Elementary School, Surigao del Sur, October 16, 2020.

Eli Curacho Apacible⁴⁷ was the head teacher of Hitaob Elementary School and a resident of Purok Quezon, Barangay Buenavista, Tandag City, Surigao del Sur.

On the 16th of October 2020, at 12:45 in the afternoon, he was inside the Hitaob Elementary School when armed men suddenly started firing at them. He recognized the attackers as known members of the NPA. Prior to the incident, they had received a warning against helping the military or the government in the latter's' livelihood and development programs. That morning, the school was implementing the *Feeding Program* for the students and distributing food to the

⁴⁵ Judicial Affidavit of Lyndon Dapar Sabiaga was executed on the 10th of February 2021 (*Exhibit PPPPPP to PPPPPP-31*).

⁴⁶ PNP Investigation Report dated 7 July 2020, consisting of four (4) pages, marked as Exhibits HHHHHHH to HHHHHHH-3; PNP Case Referral Letter relative to case for violation International Humanitarian Law (RA 9851) dated 5 August 2020 addressed to the Office of the Provincial Prosecutor, Surigao del Sur, consisting of one (1) page, marked as Exhibit HHHHHHH-4; PNP Case Referral Letter relative to case for Murder dated 13 July 2020 addressed to the Office of the Provincial Prosecutor, Surigao del Sur, consisting of one (1) page, marked as Exhibit HHHHHHH-5; Joint Affidavit executed by Corporal Ramil Abdulrakman Alih and Corporal Micheal Tormes Corpuz dated 13 July 2020, consisting of three (3) pages, marked as Exhibits HHHHHHH-6 to HHHHHHHH-8; Supplemental Affidavit executed by Jemboy Ignacio Engayas dated 4 August 2020, consisting of four (4) pages, marked as Exhibits HHHHHHH-9 to HHHHHHHH-12; PNP Belated Report dated 6 July 2020, consisting of one (1) page, marked as Exhibit HHHHHHH-13; PNP Progress Report dated 15 July 2020, consisting of one (1) page, marked as Exhibit HHHHHHH-14; Copy of the Death Certificate of Jomar Ignacio Engayas, marked as Exhibit HHHHHHH-15; and, Six (6) photographs of the cadaver of Jomar Ignacio Engayas, consisting of one (1) page, marked as Exhibit HHHHHHH-16.

⁴⁷ Apacible executed an affidavit-complaint on 9 November 2020, at Tandag City, Surigao Del Sur, (Exhibits TTTTTT to TTTTTT-2) and a Judicial Affidavit dated 10th day of February, 2021 before State Prosecutor Peter L. Ong.

parents. After lunch, the parents were making their way inside the school. He thought of going out of his office to wait for them. While standing in front of the door to his office, he saw armed members of the NPA approaching. Without warning, they shoot at the students and their parents. He was surprised at the incident that he did not notice that a bullet had already hit him on the face and that he was bleeding. In fear, he dropped to the floor. He thought his wound was fatal and that he was going to die.

When the gunfire had subsided down and the attackers had left, the soldiers gave him first aid and brought him to a safe place. The residents thereat brought him to Adela Serra Ty Memorial the Medical Center for medical treatment.

Apacible surmised that the NPA became angry when he permitted the students and their parents to become beneficiaries of the livelihood, health and development programs of the government. The attack against him at the Hitaob Elementary School sent a message of fear and warning that those working with the government will be hurt or killed. In the aftermath of the attack, he became fearful for his safety and for the safety of the students of Hitaob Elementary School.

The 16 October 2020 failed attempt on the life of Eli Apacible is subject of a criminal prosecution as evidenced by documents identified and introduced in court by Officer Paglinawan.⁴⁸

vi. The killing of Benedicto Lintahawan Dinoy a.k.a. Datu Mantakan, Bukidnon. August 13, 2018

Lolita Suldahan Dinoy⁴⁹ of P-1, Barangay Dumalaguing, Impasugong, Bukidnon is the widow of Benedicto Lintahawan Dinoy a.k.a. Datu Mantakan who was killed on 13 August 2018.

⁴⁸ PNP Investigation Report dated 9 November 2020, consisting of two (2) pages, marked as Exhibits GGGGGGG-1 to GGGGGGG-1; PNP Case Referral Letter dated 9 November 2020 addressed to the Office of the City Prosecutor of Tandag City, Surigao del Sur, consisting of two (2) pages, marked as Exhibits GGGGGGG-2 to GGGGGGG-3; Joint Affidavit executed by Sergeant Merbin D. Tupag and Private Jigo Eltanal Osing dated 9 November 2020, consisting of four (4) pages, marked as Exhibits GGGGGGG-4 to GGGGGGG-7; Sworn Affidavit executed by Corporal Nestor Gomez Baluat, Jr. dated 9 November 2020, consisting of four (4) pages, marked as Exhibits GGGGGGG-8 to GGGGGGG-11; PNP Spot Report dated 16 October, 2020, consisting of one (1) page, marked as Exhibit GGGGGGG-12; PNP Progress Report dated 9 November 2020, consisting of one (1) page, marked as Exhibit GGGGGGG-13; Extract Copy from Police Blotter dated 9 November 2020, consisting of one (1) page, marked as Exhibit GGGGGGG-14; Medical Certificate No. 2020-10-0678 issued by Adela Serra Ty Memorial Medical Center dated 26 October 2020, consisting of one (1) page, marked as Exhibit GGGGGGG-15; and, Eleven (11) photographs, consisting of two (2) pages, marked as Exhibits GGGGGGG-16 to GGGGGGG-17.

⁴⁹ Dinoy executed a "Judicial Affidavit of Complainant" executed, on 25 September 2018, in Impasugong, Bukidnon (Exhibits SSSSSS to SSSSSS-3) and a Judicial Affidavit executed on 10 February, 2021 before State Prosecutor Peter L. Ong.

Lolita recalled the night when her husband was abducted from their house. They were watching television when they heard loud, successive and hurried knocks at their door. She heard their son Samuel Dinoy, fearfully calling on his father to open the door. When they opened the door, armed persons were already pointing their long, powered firearms at them. They introduced themselves as members of the NPA. They pulled her husband outside the house while the others remained pointing their guns at her and her son. She tried to hold on to her husband's forearm but they pushed her away. They then mercilessly dragged her 70-year old husband while he was on the ground, defenseless. They kicked him and hit him with firearms. She begged them not to hurt him. Some members of their tribe tried to follow the NPA members but the NPAs fired a shot, warning them against following them.

After they had left, Lolita felt fear and worry, as she was aware that the NPA kill innocent civilians and tribal leaders who oppose them. She and the other members of their tribe waited the entire night for news. The next morning, a neighbor, Ricky Lindaban told them that a dead body was seen at P4, Barangay Dumalaguing, Impasugong, Bukidnon. Believing that it was her husband, Lolita went to the place and saw her husband's bloodied, lifeless body, riddled with hack wounds. The incident caused her trauma as well as fear for her safety, the safety of her family and that of the entire tribe. If the NPA could abduct and kill a tribal leader, there was no reason why they will not abduct and kill an ordinary tribal member.

Lolita's identification of her husband's killers as members of the NPA was largely based on the fact that they had introduced themselves as such. They also mentioned the offenses that her husband had committed against the NPA. Lolita also knew these persons as she always saw them whenever they passed through their place and demanded food rations from the residents. They always carried high-powered firearms and were dressed in black clothes. In closing, Lolita Dinoy asked for justice for her husband as well as for other indigenous people who were victims of the merciless killing, oppression and abuse committed by members of the NPA.

The 13 August 2020 killing of 70-year-old Datu Benedicto Dinoy, at Dumalaguing Village, Impasugong, Bukidnon was corroborated by documentary exhibits identified in evidence by Officer Paglinawan.⁵⁰

vii. Arson of several residential houses and a church, Misamis Oriental, May 28, 2020.

⁵⁰ PNP Incident Report dated 14 August 2018, marked as Exhibit KKKKKKK; Extract Copy from Police Blotter dated 24 September 2018, marked as Exhibit KKKKKKK-1; PNP Progress Report dated 25 September 2018, marked as Exhibit KKKKKKK-2; Three (3) photographs of the cadaver of Datu Benedicto Dinoy, and one (1) photograph of five (5) cartridge cases found in the crime scene, consisting of one (1) page, marked as Exhibit KKKKKKK-3; and, Sworn Affidavit executed by Lolita Suldahan Dinoy dated 25 September 2018, consisting of four (4) pages, marked as Exhibits KKKKKKK-4 to KKKKKKK-7.

Jeber Orong Butalid⁵¹ of Sitio Malibatu, Upper Baluhog, Manticao, Misamis Oriental recalled that on 28 May 2020, armed members of the NPA burned down houses and a church in Barangay Limunda, Opol, Misamis Oriental. At that time, he was inside the house of his parents-in-law. He and his wife decided not to leave for fear of being involved, more so because they had with them their 1-year old child. At early dawn, he went out to have a look. He saw five (5) armed persons coming towards him. He surmised they were members of the NPA because he heard them shout, “*Mabuhi ang NPA!*” Moreover, they were carrying high-powered firearms, and were dressed as NPA members were usually dressed – in boots and in all-black outfits. They did not see him because he hid behind a banana tree.

After they had gone, he returned inside their house to ensure that his family was safe, especially since he saw that the houses in the place where the NPA had just come from, were already aflame. Butalid recalled feeling fear for the safety of his family.

Michael Y. Sambulay⁵² of Zone 3, Limunda, Opol, Misamis Oriental, the Punong Barangay of Barangay Limunda, Opol, Misamis Oriental testified that at 11 o'clock in the evening of 27 May 2020, he heard successive loud gunshots. Using a hand-held radio, he immediately alerted two barangay tanods stationed at the cemetery and warned them that armed NPA members were approaching their barangay. Fearful of what the armed NPA members may do, he shouted a warning to the people in his barangay who were already alerted to the successive gunshots. The residents ran to the covered court. When he reached the covered court, there were already many people there. Old people and children were crying. Everyone was restless and anxious.

At 2 o'clock in the early morning, the barangay tanods arrived from their rounds and informed them that the armed NPA members had already reached their barangay. The tanod assigned at Zone 2 also told them that some houses were burned by the NPA. He also saw for himself that indeed some houses were already aflame. When the NPA members had left, they hurriedly went to put out the fire. To their dismay, they found out that the chapel in their barangay had burned down.

Ricky Boy Sambulay Caburatan⁵³ of Zone 2, Barangay Limunda, Opol, Misamis Oriental was a barangay tanod of Barangay Limunda, Opol. At around 3 o'clock in the morning of May 28, 2020, he witnessed the burning of houses of

⁵¹ He executed an Affidavit on 15 June 2020, in El Salvador City (Exhibits UUUUUU to UUUUUU-2) and a Judicial Affidavit on 10th day of February, 2021 before State Prosecutor Peter L. Ong.

⁵² Michael Y Sambulay executed a Judicial Affidavit dated 10 February 2021 before Deputy State Prosecutor Peter L. Ong.

⁵³ He executed his affidavit dated 15 June 2020, at El Salvador City (Exhibits VVVVVV to VVVVVV-2). As well as a Judicial Affidavit dated 10th day of February, 2021, before Prosecutor Peter L. Ong.

innocent civilians and the barangay chapel “Lord Assembly Church” in Barangay Limunda, Opol, Misamis Oriental. He was certain that the arson which resulted to destruction of property was perpetrated by the members of the NPA. Earlier that evening, successive and loud gunshots had prompted their barangay chairman to do the rounds in Zone 2 of the barangay. Concerned for his family, he told his wife and child to proceed to the covered court. He proceeded to Zone 2 to see what was happening. At 3 o’clock, armed members of the NPA entered the house of Edward Villarias and thereafter, left. Shortly thereafter, he saw that Villarias’ house had started burning. He also heard a loud explosion. When the fire started to get bigger, one of the armed NPA members said, “*Tana, ok na na. Maugdaw na na.*” (Let us go, it will now burn down.)

After the armed men had left, the barangay chairman and the residents tried to stop the conflagration. When asked why he was certain that the arsonists were NPA members, the witness answered that he recognized the two (2) women and three (3) men who, before the incident, had frequented their place. They were part of the group who introduced themselves to be members of the NPA. At that time, they accused him of being an informant for the government and had threatened him.

The 28 May 2020 burning of chapel and residential houses, in Barangay Limunda, Opol, Misamis Oriental was evidenced by documents identified by Officer Paglinawan.⁵⁴

viii. The kidnapping of the Delicona brothers and the killing of Ryard Juagpao Badiang, Surigao del Sur, May 30, 2019.

Jeffrey Ambongan Delicona⁵⁵ of Purok 4, Barangay Mampi, Lanuza, Surigao del Sur was with his brother Jondie Delicona on 20 May 2019 at the Tandag River, Sitio Pog, Barangay Maitum, Tandag City, Surigao del Sur. They were floating logs in the river when several armed men who introduced themselves as members of the NPA arrived. There were five (5) of them – three were males and two were females. They pointed their firearms at them while tying their hands with nylon rope, causing them to bleed.

⁵⁴ PNP Spot Report dated 28 May 2020, consisting of one (1) pages, marked as Exhibit JJJJJJJ; PNP Case Referral Letter relative to case dated June 17, 2020 addressed to the Office of the Provincial Prosecutor, Misamis Oriental, consisting of one (1) page, marked as Exhibit JJJJJJJ-1; Sworn Affidavit executed by Captain Virgilio Agnes Durotan, Jr. dated 15 June 2020, consisting of three (3) pages, marked as Exhibits JJJJJJJ-2 to JJJJJJJ-4; Sworn Affidavit executed by Edmar Paragos Burlas dated 15 June 2020, consisting of three (3) pages, marked as Exhibits JJJJJJJ-5 to JJJJJJJ-7; Sworn Affidavit executed by Ronnie Payla Tingcang dated 15 June 2020, consisting of three (3) pages, marked as Exhibits JJJJJJJ-8 to JJJJJJJ-10; and, Four (4) photographs of burned houses and chapel in Barangay Limunda, Opol, Misamis Oriental, consisting of one (1) page, marked as Exhibit JJJJJJJ-11.

⁵⁵ He executed a Joint Affidavit of Complaint dated 4 June 2019, together with his brother Jondie Ambongan Delicona (Exhibits LLLLLL to LLLLLL-2) as well as another Judicial Affidavit dated February 10, 2021 before State Prosecutor Peter L. Ong.

They forcibly took them to a little hut where they covered their eyes. He and his brother Jondie Ambongan were separately interrogated for an hour. They were forcing them to admit that they were military supporters and that they were against the NPA. They walked for one more hour towards the NPA camp in the mountain area. Inside the camp, there were other captives, some of whom he recognized – Wendil Delicono, Angelo Duazo and Ryard Juagpao Badiang. They kept them for four days. They were certain that it was NPA camp because of the red flags with images of the sickle and scythe, which they knew were symbols of communism. They were also wearing black. More importantly, they were trying to recruit them to join the NPA.

At 9 o'clock in the morning of 03 June 2019 which was their 4th day in captivity, he, together with Angelo Duaso and Wendil Delicono were released. However, they did not release Ryard Juagpao Badiang.

Angelo Balo Duaso⁵⁶ of Sitio Ibulan, Barangay Mampi, Lanuza, Surigao del Sur, Philippines, like Jeffrey Delicono, was also kidnapped by the NPA and was held captive for four days in the mountainous area of Tandag City, Surigao del Sur. Duaso was also at the Tandag river in Sitio Pog, Barangay Maitum, Tandag City on May 30, 2019 at 11 o'clock in the morning, together with Wendil Delicono, Ryard Juagpao Badiang, Ruel Fernandez Bolando, Rodelo Molino Montenegro, and two minors – John Delicono Duazo and Gerald Duaso Cedron. While floating the logs down the river, an armed group pointed firearms at them and tied up their arms behind their backs. For fear that they will hurt them, they did not try to escape. They took them to the mountain area. Upon reaching the high part of the mountain, the armed men were talking in their cellular phone, asking the person on the other end what to do with their captives. After an hour of walking, they noticed 20 more NPA members approaching. He knew that they had reached the camp because of the red flag with the scythe and a sickle. Everyone was wearing black. They were also recruiting them to become members of the NPA. They covered their eyes and interrogated them. They were trying to force them to admit that they were military supporters.

At 2 o'clock in the afternoon of 30 May 2019 Ruel Fernandez Bolando, Rodelo Molino Montenegro, John Delicono Duazo at Gerald Duazo Cedron were released. However, he, Wendil Delicono and Ryard Juagpao Badiang remained in captivity. On 03 June 2019 which was their 4th day in captivity, he and Jeffrey Ambongan Delicono were released. Ryard Juagpao Badiang however, remained captive. As he later learned, on 14 June 2019, Wendil Ambongan Delicono had returned to the place in the company of the military to look for Ryard Juagpao Badiang. There, they discovered Ryard's headless corpse.

⁵⁶ He executed a Joint Affidavit of Witnesses together with Wendil Ambongan Delicono on 20 June 2019, at Tandag City, Surigao del Sur (*Exhibits MMMMMM and MMMMMM-1*).

The accounts of Jeffrey Ambongan Delicona and Angelo Balo Duaso in all material points were corroborated by Jondie Ambongan Delicona and Wendil Ambongan Delicona.⁵⁷ Wendil particularly recounted his discovery of the headless corpse of Ryard Juangpao Badiang.

The incident became subject of a criminal complaint, filed before the Public Prosecutor's Office and was evidenced by official documents introduced before the Court by Officer Al. F. Paglinawan.⁵⁸

ix. The killing of Saidor Balansi, Cagayan De Oro City, July 21, 2020.

Janjan Saparo Balansi⁵⁹ of Km. 18, Barangay Besigan, Cagayan De Oro City and brother of the slain Saidor Balansi testified on the killing of his brother on 21 July 2020.

On 21 July 2020, at 6 o'clock in the evening, he was inside their house when he saw armed members of the NPA approaching. He immediately ran outside through the back of his house and hid. From his hiding place, he saw some of the armed men enter his house, looking for him. His wife told them that she did not know where he was. They were also looking for his younger brother Saidor.

The group then proceeded to the nearby house where Saidor, together with their mother and their very young nephews and nieces was staying. He heard his mother and his nephews and nieces screaming in fear, crying and begging that they not be hurt or killed. He heard the voice of the members of the NPA shouting at Saidor and calling him a traitor. He also heard them looking for him. Thereafter, he heard loud gunshots. As the group were leaving the house, they warned his family that they will kill him next.

⁵⁷ Jondie Ambongan Delicona, Filipino, of legal age, single and a resident of Purok 4, Barangay Mampi, Lanuza, Surigao del Sur executed, together with Jeffrey A. Delicona a Joint Affidavit marked as Exhibits LLLLLL to LLLLLL-2). He also executed a Judicial Affidavit dated 10th day of February, 2021 before State Prosecutor Peter L. Ong. Wendil Ambongan Delicona, Filipino, of legal age, farmer and a resident of Sitio Ibulan, Barangay Mampi, Lanuza, Surigao del Sur also executed a Joint Affidavit of Witnesses together with Angelo Balo Duaso dated 20 June 2019, at Tandag City, Surigao del Sur, marked as Exhibits MMMMMM and MMMMMM-1. He also executed another Judicial Affidavit on the 10th day of February, 2021, before State Prosecutor Peter L. Ong.

⁵⁸ These documents included the following – (a) Resolution in NPS Doc. No. XIII-11-INV-19F-00153 consisting of three (3) pages, marked as Exhibits EEEEEEEE to EEEEEEEE-2; (b). PNP Investigation Report dated July 8, 2019, consisting of four (4) pages, marked as Exhibits EEEEEEEE-3 to EEEEEEEE-6; (c) PNP Progress Report dated 14 June 2019, consisting of three (3) pages, marked as Exhibits EEEEEEEE-7 to EEEEEEEE-9; (d). PNP Progress Report dated 6 June 2019, consisting of two (2) pages, marked as Exhibits EEEEEEEE-10 to EEEEEEEE-11; (e). PNP Spot Report dated 31 May 2019, consisting of one (1) page, marked as EEEEEEEE-12.

⁵⁹ He had executed a "*Judicial Affidavit of Complaint*" on 23 July 2020, in Cagayan de Oro City (Exhibits RRRRRR and RRRRRR-1) as well as a Judicial Affidavit dated 10th day of February, 2021 before State Prosecutor Peter L. Ong.

His cousin Ryan Balansi called the police and their barangay chairman, Jeson Magay. The next day, the police came and conducted an investigation. Empty shell casings of an M16 firearm were recovered. The body of Saidor was taken away for an autopsy.

He was certain that the members of the NPA had killed his brother. They were the same persons who deceived them into joining the NPA in 2015. They were promised a monthly salary of P5,000.00. In return, they will leave their families and go to the mountains. Due to extreme poverty and driven by the desire to help their families, he joined the group. However, he did not receive a single peso from them. More importantly, he witnessed how abusive they were. They killed innocent civilians as well as their comrades who wanted to surrender to the government. In 2017, he decided to surrender to the government and live a new life.

Linis Tumarong Dalumpay⁶⁰ of Km. 17, Barangay Besigan, Cagayan de Oro City, corroborated the testimony of Janjan Saporo Balansi.

On 21 July 2020, at 6 o'clock in the evening, witness Linis Tumarong Dalumpay was walking towards the house of his nephew Jan Jan Balansi when he heard successive and loud gunshots. Fearfully, he hid from sight. After a few minutes, he saw about (30) members of the NPA armed with different kinds of high caliber firearms surround his nephew's house.

He recognized some of them to be the same persons who recruited him to the NPA. One of them shouted -- "*Mga NPA mi tanan. Mga mag surrender pamatyon namu.*" (We are all members of the NPA. We kill those who surrender to the government.") While he waited for them to leave, there was another commotion in the house of Saidor. There was crying and shouting. When he went there, he saw Saidor's mother hugging the bloodied and lifeless body of her son.

The July 21, 2020 killing of Datu Saidor Balansi, at Sitio KM 18, Barangay Besigan, Cagayan de Oro City became subject of a criminal complaint, and was further evidenced by documents identified by Officer Paglinawan.⁶¹

C. Attacks against military and police personnel, Mindanao (2017)

⁶⁰ He executed a Judicial Affidavit dated 10 February 2021, before Deputy State Prosecutor Peter L. Ong.

⁶¹ Resolution in NPS Doc. No. X-06-INV-20H-2143, consisting of two (2) pages, marked as Exhibits IIIIII-1 to IIIIII-1; PNP Case Referral Letter dated 6 August 2020 addressed to the Office of the City Prosecutor, Cagayan de Oro City, consisting of one (1) page, marked as Exhibit IIIIII-2; PNP Spot Report dated July 22, 2020, consisting of one (1) page, marked as Exhibit IIIIII-3; PNP First Progress Report dated July 30, 2020, consisting of one (1) page, marked as Exhibit IIIIII-4; PNP Second Progress Report dated August 6, 2020, consisting of one (1) page, marked as Exhibit IIIIII-5; and, Autopsy Report issued by Regional Crime Laboratory Office 10 dated July 24, 2020, consisting of two (2) pages, marked as Exhibits IIIIII-6 to IIIIII-7.

In his testimony in court, Paglinawan identified various documents furnished by the PNP DIDM with regard to atrocities committed by the Communist Terrorist Group in 2017. These atrocities to which the documents pertained included the following incidents:

- (a) The 8 March 2017 ambush of PNP personnel, at Barangay Sibayan, Bansalan, Davao Del Sur ⁶²
- (b) The 29 April 2017 attack on Torre Lorenzo Development Corporation and the plastic and box warehouses of Lapanday Foods Corporation, at Barangay Mandug, Buhangin District, Davao City⁶³
- (c) The 19 July 2017 ambush of Presidential Security Group personnel, at Purok 3, Barangay Katipunan, Arakan, North Cotabato⁶⁴

⁶² With regard to the 8 March 2017 ambush of PNP personnel, at Barangay Sibayan, Bansalan, Davao Del Sur, the documents furnished by the PNP DIDM included the following:

- (a) SOCO Report re - Ambush Incident dated 8 March 2017, consisting of four (4) pages, marked as Exhibits EEE to EEE-3;
- (b) Five (5) photographs of ambushed PNP personnel and crime scene, consisting of five (5) pages, marked as Exhibits FFF to FFF-4;
- (c) PNP Blotter Extract dated 30 March 2017, consisting of three (3) pages, marked as Exhibits GGG to GGG-2;
- (d) PNP Investigation Report dated 30 March 2017, consisting of five (5) pages, marked as Exhibits HHH to HHH-4; and
- (e) Joint Resolution in NPS XI-04-INV-17C-00086 and XI-04-INV-17C-00087 issued, on 1 June 2017, consisting of seven (7) pages, marked as Exhibits III to III-6.

Lastly is Exhibit W-3, a video showing the crime scene and victims after the ambush of PNP personnel, on 8 March 2017, at Barangay Sibayan, Bansalan, Davao Del Sur.

⁶³ With regard to the 29 April 2017 attack on Torre Lorenzo Development Corporation and the plastic and box warehouses of Lapanday Foods Corporation, at Barangay Mandug, Buhangin District, Davao City the documents furnished by the PNP DIDM included the following:

- (a) PNP Investigation Report dated 29 May 2017, consisting of three (3) pages, marked as Exhibits JJJ to JJJ-2; and
- (b) Twenty-three (23) photographs, consisting of twelve (12) pages, marked as Exhibits KKK to KKK-11.

⁶⁴ With regard to the 19 July 2017 ambush of Presidential Security Group personnel, at Purok 3, Barangay Katipunan, Arakan, North Cotabato, the documents furnished by the PNP DIDM included the following:

- (a) PNP Spot Report dated 19 July 2017 marked as Exhibits LLL;
- (b) Eight (8) photographs marked as Exhibits MMM;
- (c) PNP Progress Report dated 19 July 2017, consisting of three (3) pages, marked as Exhibits NNN to NNN-2;
- (d) Resolution in NPS Doc. No. XII-06-INV-17H-00328, consisting of two (2) pages, marked as Exhibits OOO & OOO-1;

- (d) The 21 July 2017 ambush of PNP personnel, at Sitio Tambuanan, Barangay Magsaysay, Guihulngan City, Negros Oriental ⁶⁵

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- (e) Information in Criminal Case No. 4453-2017 filed before the Regional Trial Court, 12th Judicial Region, Kidapawan, North Cotabato, consisting of two (2) pages, marked as Exhibits PPP & PPP-1;
- (f) Information in Criminal Case No. 4454-2017 filed before the Regional Trial Court, 12th Judicial Region, Kidapawan, North Cotabato, consisting of two (2) pages, marked as Exhibits QQQ & QQQ-1;
- (g) Information in Criminal Case No. 4455-2017 filed before the Regional Trial Court, 12th Judicial Region, Kidapawan, North Cotabato, consisting of two (2) pages, marked as Exhibits RRR & RRR-1; and
- (h) Information in Criminal Case No. 4456-2017 filed before the Regional Trial Court, 12th Judicial Region, Kidapawan, North Cotabato, consisting of two (2) pages, marked as Exhibits SSS & SSS-1.

⁶⁵ With regard to the 21 July 2017 ambush of PNP personnel, at Sitio Tambuanan, Barangay Magsaysay, Guihulngan City, Negros Oriental, the PNP DIDM furnished to Paglinawan the following documents:

- (a) PNP Spot Report dated 21 July 2017, consisting of two (2) pages, marked as Exhibits TTT & TTT-1;
- (b) Twenty-eight (28) photographs, consisting of eight (8) pages, marked as Exhibits UUU to UUU-7;
- (c) PNP Progress Report dated 21 July 2017, consisting of three (3) pages, marked as Exhibits VVV to VVV-2;
- (d) PNP Investigation Report dated 21 July 2017, consisting of six (6) pages, marked as Exhibits WWW to WWW-5;
- (e) Extract Copy from the Police Blotter Entry No. 541, Blotter Book No. 15, Series of 2016, Page No. 167, dated 21 July 2017, consisting of two (2) pages, marked as Exhibits XXX & XXX-1;
- (f) PNP Special Report dated 23 July 2017, consisting of six (6) pages, marked as Exhibits YYY to YYY-5;
- (g) PNP Progress and Final Report dated 21 September 2017, consisting of six (6) pages, marked as Exhibits ZZZ to ZZZ-5;
- (h) Joint Resolution in NPS Docket No. VII-21-INV-17I-00569 to VII-21-INV-17I-00575 and VII-21-INV-17I-0056, consisting of ten (10) pages, marked as Exhibits AAAA to AAAA-9;
- (i) Information in Criminal Case No 17-115-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits BBBB & BBBB-1;
- (j) Information in Criminal Case No 17-116-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of three (3) pages, marked as Exhibits CCCC to CCCC-2;
- (k) Information in Criminal Case No 17-117-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of four (4) pages, marked as Exhibits DDDD to DDDD-3;
- (l) Information in Criminal Case No 17-118-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits EEEE & EEEE-1;

- (e) The 14 September 2017 attack on the solar farm of Helios Solar Energy Corporation, at Purok Sandra, Barangay Tinampa-an, Cadiz City, Negros Occidental ⁶⁶

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- (m) Information in Criminal Case No 17-119-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits FFFF & FFFF-1;
- (n) Information in Criminal Case No 17-120-G filed, on 27 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits GGGG & GGGG-1;
- (o) Information in Criminal Case No 17-121-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits HHHH & HHHH-1;
- (p) Information in Criminal Case No 17-122-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits IIII & IIII-1;
- (q) Information in Criminal Case No 17-123-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits JJJJ & JJJJ-1;
- (r) Information in Criminal Case No 17-124-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages Information in Criminal Case No 17-124-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages., marked as Exhibits KKKK & KKKK-1;
- (s) Information in Criminal Case No 17-125-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits LLLL & LLLL-1;
- (t) Information in Criminal Case No 17-126-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages., marked as Exhibits MMMM & MMMM-1;
- (u) Information in Criminal Case No 17-127-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits NNNN & NNNN-1;
- (v) Information in Criminal Case No 17-128-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages Information in Criminal Case No 17-128-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages., marked as Exhibits OOOO & OOOO-1; and
- (w) Information in Criminal Case No 17-129-G filed, on 28 November 2017, before the Regional Trial Court, 7th Judicial Region, Branch 64, Guihulngan City, Negros Oriental, consisting of two (2) pages, marked as Exhibits PPPP & PPPP-1.

⁶⁶ With regard to the 14 September 2017 attack on the solar farm of Helios Solar Energy Corporation, at Purok Sandra, Barangay Tinampa-an, Cadiz City, the documents furnished by the PNP DIDM included the following:

- (a) Excerpt from the Records of the Police Blotter dated September 14, 2017, marked as Exhibit QQQQ;
- (b) PNP First Progress Report dated 15 September 2017, marked as Exhibit RRRR;
- (c) PNP Second Progress Report dated 19 September 2017, consisting of two (2) pages, marked as Exhibits SSSS & SSSS-1;

- (f) The 28 September 2017 burning of ten (10) heavy equipment owned by E.M. Cuerpo, Inc., at the Bicol International Airport, Barangay Alobo, Daraga, Albay, and the simultaneous attacks against the Philippine Army Patrol Base Detachment, at Barangay Alobo, Daraga, Albay, and the PNP 2nd Manuever Platoon of Albay PPSC, at Barangay Bascaran, Daraga, Albay ⁶⁷
- (g) The 3 October 2017 ambush of PNP personnel and civilians, at Sitio Buta, Barangay Caliling, Cauayan, Negros Occidental ⁶⁸
- (h) The 9 November 2017 ambush of PNP personnel at Km. 28 of the Cagayan De Oro-Dominorog-Kalilangan Road, Barangay Tikalaan, Talakag, Bukidnon ⁶⁹

- (d) PNP Investigation Report dated 26 January 2018, consisting of five (5) pages, marked as Exhibits TTTT to TTTT-4; and
- (e) Twelve (12) photographs, consisting of two (2) pages, marked as Exhibits UUUU & UUUU-1.

⁶⁷ With regard to the 28 September 2017 burning of ten (10) heavy equipment owned by E.M. Cuerpo, Inc., at the Bicol International Airport, Barangay Alobo, Daraga, Albay, and the simultaneous attacks against the Philippine Army Patrol Base Detachment, at Barangay Alobo, Daraga, Albay, and the PNP 2nd Manuever Platoon of Albay PPSC, at Barangay Bascaran, Daraga, Albay, the documents furnished by the PNP DIDM included the following:

- (a) PNP Investigation Report dated 9 October 2017, consisting of nine (9) pages, marked as Exhibits VVVV to VVVV-8;
- (b) PNP Certification dated 19 October 2017, consisting of two (2) pages, marked as Exhibits WWWW & WWWW-1;
- (c) Bureau of Fire Protection Final Investigation Report dated 20 November 2017, consisting of four (4) pages, marked as Exhibits XXXX to XXXX-3; and
- (d) Three (3) photographs of burned heavy equipment owned by E.M. Cuerpo, Inc., with links where the photographs were downloaded, marked as Exhibits YYYY.

⁶⁸ With regard to the 3 October 2017 ambush of PNP personnel and civilians, at Sitio Buta, Barangay Caliling, Cauayan, Negros Occidental, the documents furnished by the PNP DIDM included the following:

- (a) PNP Spot Report dated 3 October 2017, marked as Exhibit ZZZZ;
- (b) Four (4) photographs, consisting of two (2) pages, marked as Exhibits AAAAA & AAAAA-1;
- (c) PNP After Operation Report dated 3 October 2017, consisting of two (2) pages, marked as Exhibits BBBB & BBBB-1;
- (d) PNP Progress Report dated 4 October 2017, consisting of two (2) pages, marked as Exhibits CCCC & CCCC-1;
- (e) PNP Comprehensive Special Report dated 10 October 2017, consisting of three (3) pages, marked as Exhibits DDDDD to DDDDD-2; and
- (f) Police Blotter Report issued, on 19 December 2017, consisting of two (2) pages, marked as Exhibits EEEEE & EEEEE-1.

⁶⁹ With regard to the 9 November 2017 ambush of PNP personnel at Km. 28 of the Cagayan De Oro-Dominorog-Kalilangan Road, Barangay Tikalaan, Talakag, Bukidnon, the documents furnished by the PNP DIDM included the following:

- (i) The 13 November 2017 kidnapping of two (2) PNP personnel at Barangay Bad-as, Placer, Surigao Del Norte⁷⁰
- (j) The 2 December 2017 ambush of PNP personnel, at Sitio Binuang, Barangay Daguit, Labo, Camarines Norte⁷¹
- (k) The 3 December 2017 attack of the Municipal Police Station, at Binuangan, Misamis Oriental⁷²

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- (a) PNP Spot Report dated 9 November 2017, consisting of two (2) pages, marked as Exhibits FFFFF & FFFFF-1;
 - (b) PNP Progress Report dated 19 November 2017, consisting of two (2) pages, marked as Exhibits GGGGG & GGGGG-1;
 - (c) PNP Post Blast Investigation Report dated 12 November 2017, consisting of eight (8) pages, marked as Exhibits HHHHH to HHHHH-7;
 - (d) PNP Investigation Report dated 11 January 2018, consisting of two (2) pages, marked as Exhibits IIIII & IIIII-1; and
 - (e) After SOCO Report dated 11 November 2017, with twelve (12) photographs, consisting of six (6) pages, marked as Exhibits JJJJJ to JJJJJ-5.

⁷⁰ With regard to the 13 November 2017 kidnapping of two (2) PNP personnel at Barangay Bad-as, Placer, Surigao Del Norte, the documents furnished by the PNP DIDM included the following:

- (a) PNP Progress Report dated 13 November 2017, marked as Exhibit KKKKK;
- (b) Photographs of PO2 John Paul M. Doverte and PO2 Alfredo L. Degamon Jr., with a link where these photographs were downloaded, marked as Exhibit LLLLL;
- (c) PNP Investigation Report (IR) dated 30 November 2017, consisting of three (3) pages, marked as Exhibits MMMMM to MMMMM-2;
- (d) Resolution (Inquest) in NPS Doc. No. XIII-06-INQ-17K-149, marked as Exhibit NNNNN; and
- (e) Information in Criminal Case No. 13496 filed, on 15 November 2017, before the Regional Trial Court, Surigao City, consisting of two (2) pages, marked as Exhibits OOOOO & OOOOO-1.

⁷¹ With regard to the 2 December 2017 ambush of PNP personnel, at Sitio Binuang, Barangay Daguit, Labo, Camarines Norte, the documents furnished by the PNP DIDM included the following:

- (a) PNP After SOCO Report dated 2 December 2017, consisting of two (2) pages, marked as Exhibits PTTTT & PTTTT-1;
- (b) PNP Certification issued, on 8 January 2018, marked as Exhibit QQQQQ;
- (c) PNP Investigation Report dated 22 January 2018, consisting of eleven (11) pages, marked as Exhibits RRRRR to RRRRR-10; and
- (d) Three (3) photographs, with links where these photographs were downloaded, marked as Exhibit SSSSS.

⁷² With regard to the 3 December 2017 attack of the Municipal Police Station, at Binuangan, Misamis Oriental, the documents furnished by the PNP DIDM included the following:

- (a) PNP After SOCO Report dated 3 December 2017, consisting of seven (7) pages, marked as Exhibits TTTTT to TTTTT-6;
- (b) Extract Copy from Police Blotter dated 8 January 2018, marked as Exhibit UUUUU;

- (l) The 17 December 2017 ambush of personnel of the 20th Infantry Battalion, Philippine Army, who were conducting humanitarian assistance and disaster response operations to victims of tropical storm “Urduja”, at Barangay Hinagoyonan, Catubig, Northern Samar⁷³

The foregoing documentation notwithstanding, these incidents of atrocities allegedly committed by the CPP-NPA against the police and military personnel were not testified to by eyewitnesses. For this reason, the documentary evidence pertaining thereto can only be classified as hearsay evidence.

Among the Petitioner’s witnesses, it was Rafael Cruz Glemao who admitted to taking part in attacks against military personnel. Cruz briefly mentioned joining the tactical offensives against the government troops, the liquidation, sabotage of ranches and farms as well as facilities of telecommunication companies as may be ordered by the Central Committee. Cruz named the tactical operations that he participated in, against the military and the police, viz.,

- Attack against the 70th detachment IB of the Philippine Army in barangay Kasalat, San Idefonso. Bulacan, during the last quarter of 1993. They killed two members of the CAFGU and confiscated two M16 Rifles;
- Attack against the 70th detachment IB of the Philippine Army in Barangay Tukod, San Rafael, Bulacan, during the first quarter of 1994. They confiscated four M16 Rifles and one M203 grenade rifle;
- Attack against the detachment of the Philippine Army in Barangay Bitbit, Macabalay, San Miguel, Bulacan, during the first quarter of 1995. They killed one kagawad of the army and one employee of the DENR. They confiscated one M16 Rifle and one ICOM Base Radio Trans-receiver.

Cruz, however, did not expound on the foregoing incidents. Moreover, no supporting documentary evidence pertaining to said incidents were introduced in evidence.

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- (c) Investigation Data Form NPS Docket No. X-05-INV-18A-00029, marked as Exhibit VVVVV; and
- (d) PNP Case Referral Letter dated January 12, 2018 addressed to the Office of the Provincial Prosecutor, Misamis Oriental, consisting of three (3) pages, marked as Exhibits WWWW to WWWW-2.

⁷³ With regard to the 17 December 2017 ambush of personnel of the 20th Infantry Battalion, Philippine Army, who were conducting humanitarian assistance and disaster response operations to victims of tropical storm “Urduja”, at Barangay Hinagoyonan, Catubig, Northern Samar, the documents furnished by the PNP DIDM included the following:

- (a) PNP Spot Report dated 16 December 2017, marked as Exhibit XXXXX;
- (b) PNP Investigation Report (IR) dated 21 December 2017, consisting of three (3) pages, marked as Exhibits YYYYY to YYYYY-2; and
- (c) PNP Blotter Excerpt dated 21 December 2017, marked as Exhibit ZZZZ.

VII. Survey of Relevant Supreme Court Jurisprudence on the CPP-NPA

It was not Congress through a legislative fiat, which first outlawed the CPP; rather, it was the Courts, three decades prior to the enactment of the Anti-Subversion Law, which first declared the CPP an illegal organization. In *People of the Philippine Islands vs. Crisanto Evangelista, et. al.*, (L-326278, 26 October 1932), the Supreme Court affirmed the decision of Court of First Instance (CFI) Judge Mariano A. Albert of Manila finding Crisanto Evangelista and his co-accused guilty of the crime of “illegal association” for which they were indicted in an Information which read, as follows *viz.*,

“That on or about the 30th day of May, 1931, and for some time prior thereto, the above named accused, conspiring and confederating together and helping one another, did then and there “willfully, unlawfully and feloniously affiliate to, compose and become members of, the so-called Communist Party of the Philippines (*Partido Komunista sa Pilipinas*), an illegal association, whose principal purposes and objects are to bring about, by the use of force, the downfall of the present form of government and establish in place thereof another patterned after the Soviet Government of Russia and run by those affiliated to and in sympathy with said association; to incite a revolt of the laboring class, advocating and urging struggle between said laboring class and the so-called capitalists, and other similar objects tending to combat the fundamental basis of the present social order and alter the regularity of its functions and to the commission of violations of the existing laws, which above-mentioned association was formed and organized without the local authorities having been informed of its aforesaid objects and purposes as well as of the by-laws thereof; and that at the time and place hereinabove mentioned, in the furtherance of their conspiracy and in utter disregard of the notice or warning given by the authorities that they could not hold any meeting anywhere, the said accused assembled, gathered and congregated under the name and auspices of the *Katipunan ng mga Anak pawis sa Pilipinas* (Association of the Sons of the Sweat of the Philippine Islands), another association having the same illegal aims and purposes as the said Communist Party of the Philippines, at El Retono Building, in said City of Manila.”

As the trial court had found, the accused had presented themselves as candidates of the Communist Party for different offices — insular, provincial and municipal — in the last elections; that they campaigned for their candidacies as members of the Communist Party, delivered speeches at several meetings of the Communist Party, advocating the ideas and principles of the said Communist Party and urging the laborers to join it. One of the accused was the editor of a newspaper; another admitted that he went to Russia as delegate of the *Kapisanan nang mga Anak Pawis* to the Red International Labor Union Congress. More importantly, the appellants did not deny that they were members of the Communist Party of the Philippines; on the contrary, Crisanto Evangelista admitted expressly at the trial that he was affiliated to the said party, their principal defense being that the Communist Party of the Philippines was not an illegal association in that it preached only a social but not an armed revolution. In rejecting their defense, the Supreme Court held, *viz.*,

“Under the law of the Philippine Islands, the association formed by the appellants is clearly illegal. Article 188 of the Penal Code, as substituted by article 24 of the Royal Decree of September 12, 1897 (Alcubilla, *Diccionario de Administracion, Apendice de 1897*, p. 454), says that illegal associations are those the object of which is against public morals, to commit some crime, or to attack the fundamental basis of the social order or alter the regularity of its functions. Now, according to appellant Crisanto Evangelista and the constitution and by-laws of the Communist Party of the Philippines, the purpose of the party is to incite class struggle and to overthrow the present government by peaceful means or by armed revolution; therefore the purpose of the party is to alter the social order and to commit the crimes of rebellion and sedition. An association having such an object must necessarily be illegal (decision of Oct. 8, 1884, of the Supreme Court of Spain, 7 Hidalgo, *Cod. Pen.*, 531-532.) The report submitted by Secretary Hughes to the Senate of the United States, as well as that made by Hamilton Fish, after an investigation of communism, leads to the same conclusion, namely, that force and violence are inseparable from communist programs.

Thirty years later, to counter the growing rebellion led by the CPP and its armed wing, the Hukbong Magpapalaya ng Bayan (HMB), the Philippine Legislature, on 20 June 1957 enacted R.A. 1700 or “*An Act to Outlaw the Communist Party of the Philippines and Similar Associations, Penalizing Membership Therein, and for Other Purposes*” more commonly known as the Anti-Subversion Law of 1957. The law described the CPP as an “organized conspiracy to overthrow the Government of the Republic of the Philippines, not only by force or violence but also by deceit, subversion and other illegal means, for the purpose of establishing in the Philippines a totalitarian regime subject to alien domination and control.” It penalized with *arresto mayor* and permanent disqualification from public office the act of “knowingly” and “wilfully” affiliating with the CPP through witting overt acts, or through membership.⁷⁴ In case the member was an officer or a ranking leader, or had taken up arms against the government, the penalty was increased to *prision mayor* to death.

Faced with the question of the constitutionality of R.A. 1700, the Supreme Court, in “*People vs. Hon. Simeon Ferrer, et. al., G.R. Nos. L-32613-14 27 December 1972*), first traces the nature and character of the Communist Party of the Philippines, *viz.*,

“In the Philippines, the character of the Communist Party has been the object of continuing scrutiny by this Court. In 1932, we found the Communist Party of the Philippines to be an illegal association. In 1969, we again found that the objective of the Party was to overthrow the Philippine Government by armed struggle and to establish in the Philippines a communist form of government similar to that of Soviet Russia and Red China. More recently in *Lansang vs Garcia (L-33864, 11 December 1971, 42 SCRA 448)* we noted the growth of the Communist

⁷⁴ Approximately four years after the declaration of martial law, President Marcos issued P.D. 885 which expanded the coverage of R.A. 1700 to include other organizations with the purpose of overthrowing the national government. The act was revived by president Aquino in 1987 through Executive Order No. 167 but was finally repealed in 1992, by R.A. 7637 signed President Fidel V. Ramos.

Party of the Philippines and the organization of Communist fronts among youth organizations such as the Kabataang Makabayan (KM) and the emergence of the New People's Army. After meticulously reviewing the evidence, we said – “We entertain therefore, no doubts about the existence of a sizeable group of men who have publicly risen in arms to overthrow the government and have thus been and still are engaged in rebellion against the Government of the Philippines.”

The Supreme Court also dismisses the argument that R.A. 1700 is a bill of attainder, stating that if it is, “it would have been totally unnecessary to charge communists in court, as the law alone, without more, would suffice to secure their punishment. Guilt still has to be judicially established; the Government has yet to prove at the trial that the accused joined the party knowingly, wilfully and by overt acts, and that he or she has joined the Party, knowing its subversive character and with specific intent to further its basic objective, *i.e.*, to overthrow the existing Government by force, deceit, and other illegal means and place the country under the control and domination of a foreign power.”

The Supreme Court likewise finds no merit in the claim that R.A. 1700 imputes “organizational guilt” despite the requirement of proof of membership, stating that this is precisely the nature of conspiracy, where all who participate in the criminal covenant are held liable. Pointedly, the statute does not punish mere membership, only membership that is “knowing” or “active” with specific intent to further the illegal objectives of the Party. The requirement in Section 4 of R.A. 1700 that membership to be unlawful, should be proven to have been acquired “knowingly, wilfully, and by overt acts” – constitutes an element of membership distinct from the ingredient of “guilty knowledge.” The former requires proof of direct participation in the organization's unlawful activities while the latter requires proof of mere adherence to the organization's illegal activities.”

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

Meanwhile, on 21 August 1971, a political rally at the Plaza Miranda in Quiapo, Manila for the proclamation of the Liberal Party's senatorial candidates is wracked by explosions. The bombing, which results to the deaths of 9 persons and injuries to 95 others, (*later known as the Plaza Miranda bombing*), shakes the entire nation. For a time, the administration is the primary suspect of having authored the bombing as a ploy to lay the groundwork for the declaration of

martial law a year later. Many years later, the CPP admits responsibility for the incident. There is no question however, that the incident has prompted then President Ferdinand E. Marcos to issue Proclamation No. 889 on 21 August 1971, giving himself emergency powers and suspending the writ of *habeas corpus*.

Proclamation No. 889 is assailed in a slew of petitions before the Supreme Court. Its consolidated decision in "*Lansang, et. al., vs. Garcia, et. al.,*" (G.R. No. L-33964, 11 December 1971)⁷⁵ is considered, until today, a critical point for the judiciary, when the Philippine Supreme Court upholds its power of judicial review – "The function of the Court is merely to check – not to supplant – the Executive, or to ascertain merely whether he had gone beyond the constitutional limits of his jurisdiction, not to exercise the power vested in him or to determine the wisdom of his act. x x x x The judicial inquiry into the basis of the questioned proclamation can go no further than to satisfy the Court not that the President's decision is correct and that public safety was endangered by the rebellion and justified by the suspension of the writ, but that in suspending the writ, the President did not act arbitrarily."

The *Lansang* decision is a significant departure from the earlier ruling in *Barcelon vs. Baker* (G.R. No. 2808, 20 September 1905), where the Supreme Court, faced with the question of whether or not the judicial department may investigate facts upon which the executive or legislative branches of government base their action (which, in said case, is the determination of whether or not a

⁷⁵ These consolidated cases are: IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF TEODOSIO LANSANG RODOLFO DEL ROSARIO, and BAYANI ALCALA, petitioners, vs. BRIGADIER-GENERAL EDUARDO M. GARCIA, Chief, Philippine Constabulary, respondent, G.R. No. L-33964 December 11, 1971; ROGELIO V. ARIENDA, petitioner, vs. SECRETARY OF NATIONAL DEFENSE, and CHIEF, PHIL. CONSTABULARY, respondents, G.R. No. L-33965 December 11, 1971; LUZVIMINDA DAVID, petitioner, vs. GEN. EDUARDO GARCIA, in his capacity as Chief, Philippine Constabulary, COL. N. C. CAMELLO, in his capacity as Chief of Staff, Philippine Constabulary and HON. JUAN PONCE ENRILE in his capacity as Secretary, Department of National defense, respondents, G.R. No. L-33973 December 11, 1971; .IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF NEMESIO E. PRUDENTE FELICIDAD G. PRUDENTE, petitioners, vs. GENERAL MANUEL YAN, GEN. EDU GARCIA, respondents, G.R. No. L-33982 December 11, 1971; IN THE MATTER OF THE APPLICATION FOR HABEAS CORPUSIN BEHALF OF GERARDO TOMAS, ALSO KNOWN AS "GERRY TOMAS" AND FOR RETURN OF DOCUMENTS ILLEGALLY SEIZED. DOMINGO E. DE LARA, in his capacity as Chairman, Committee on Legal Assistance, Philippine Bar Association, petitioner, vs. BRIG. GENERAL EDUARDO M. GARCIA, CHIEF, PHILIPPINE CONSTABULARY, respondent, G.R. No. L-34004 December 11, 1971; REYNALDO RIMANDO, petitioner, vs. BRIG. GEN. EDUARDO M. GARCIA, Chief of the Philippine Constabulary, respondent; G.R. No. L-34013 December 11, 1971; IN THE MATTER OF THE APPLICATION FOR HABEAS CORPUSIN BEHALF OF SGT. FILOMENO M. DE CASTRO AND HIS WIFE, MRS. BARCELISA C. DE CASTRO. CARLOS C. RABAGO, in his capacity as President of the Conference Delegates Association of the Philippines (CONDA), petitioner, vs. BRIG. GEN. EDUARDO M. GARCIA, Chief, Philippine Constabulary, respondent, G.R. No. L-34039 December 11, 1971; IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF ANTOLIN ORETA, JR. ANTOLIN ORETA, JR., petitioner, vs. GEN. EDUARDO GARCIA and COL. PROSPERO OLIVAS, respondents, G.R. No. L-34265 December 11, 1971; GARY B. OLIVAR, assisted by his father, GEORGE OLIVAR, petitioner, vs. GEN. EDUARDO GARCIA, in his capacity as Chief, Philippine Constabulary, et al., respondents, G.R. No. L-34339 December 11, 1971.

state of rebellion, insurrection, or invasion exist or public safety is in danger, so as to justify the suspension of the writ of *habeas corpus*, existed), refuses to make any factual determination and instead defers to the authority of Congress to provide the President with the power to suspend the writ in the aforementioned instances – “We hold that such authority is exclusively vested in the Executive and Legislative branches of government and their decision is final and conclusive upon this department of the Government and upon all persons.”

Having affirmed its power of review of the circumstances that justify the suspension of the writ, the Supreme Court thereafter holds that the executive act of suspending the writ is factually and legally justified. Less than a year later, on 21 September 1972, President Ferdinand E. Marcos issues Proclamation No. 1081, placing the entire country under martial law. Proclamation No. 1081 is aimed quell a rebellion by “lawless elements” with particular reference to the Communist Party of the Philippines which the Proclamation has described as an organized conspiracy to overthrow the government of the Republic of the Philippines, not only by force and violence but also by deceit, subversion and other illegal means, for the purpose of establishing in the Philippines a totalitarian regime subject to alien domination and control. A reading of Proclamation No. 1081 shows that it has copiously cited the Supreme Court’s findings of facts contained in its decision in *Lansang, et. al., v. Garcia, et. al.*, as basis for the proclamation of martial law, *viz.*,

“WHEREAS, the Supreme Court in the cases brought before it, docketed as G.R. Nos. L-33964, L-33965, L-33973, L-33982, L-34004, L-34013, L-34039, L-34265, and L-34339, as a consequence of the suspension of the privilege of the writ of habeas corpus by me as President of the Philippines in my Proclamation No.889, dated August 21, 1971, as amended, has found that in truth and in fact there exists an actual insurrection and rebellion in the country by a sizeable group of men who have publicly risen in arms to overthrow the government. Here is what the Supreme Court said in its decision promulgated on December 11, 1971:

“x x x our jurisprudence attests abundantly to the Communist activities in the Philippines, especially in Manila, from the late twenties to the early thirties, then aimed principally at incitement to sedition or rebellion, as the immediate objective. Upon the establishment of the Commonwealth of the Philippines, the movement seemed to have waned notably; but, the outbreak of World War II in the Pacific and the miseries, the devastation and havoc, and the proliferation of unlicensed firearms concomitant with the military occupation of the Philippines and its subsequent liberation, brought about, in the late forties. a resurgence of the Communist threat, with such vigor as to be able to organize and operate in Central Luzon an army -called HUKBALAHAP, during the occupation, and renamed Hukbong Mapagpalaya ng Bayan (HMB) after liberation- which clashed several times with the armed forces of the Republic. This prompted then President Quirino to issue Proclamation No.210, dated October 22, 1950, suspending the privilege of the writ of habeas Corpus, the validity of which was upheld in *Montenegro v. Castañeda*. Days before the promulgation of said Proclamation, or on October 18, 1950, members of the

Communist Politburo in the Philippines were apprehended in Manila. Subsequently accused and convicted of the crime of rebellion, they served their respective sentences.

“The fifties saw a comparative lull in Communist activities, insofar as peace and order were concerned. Still, on June 20, 1957, Republic Act No.1700, otherwise known as the Anti-Subversion Act, was approved, upon the grounds stated in the very preamble of said statute -that

” x x x the Communist Party of the Philippines, although purportedly apolitical party, is in fact an organized conspiracy to overthrow the Government of the Republic of the Philippines, not only by force and violence but also by deceit, subversion and other illegal means, for the purpose of establishing in the Philippines a totalitarian regime subject to alien domination and control;

” x x x the continued existence and activities of the Communist Party of the Philippines constitutes a clear, present and grave danger to the security of the Philippines; and

” x x x in the fact of the organized, systematic and persistent subversion, national in scope but international in direction, posed by the Communist ...Party of the Philippines and its activities, there is urgent need for special legislation to cope with this continuing menace to the freedom and security of the country x x x.”:

“In the language of the Report on Central Luzon, submitted, on September 4, 1971, by the Senate Ad Hoc Committee of Seven- copy of which Report was filed in these cases by the petitioners herein-

“The years following 1963 saw the successive emergence in the country of several mass organizations, notably the Lapiang Manggagawa (now the Socialist Party of the Philippines) among the workers; the Malayang Samahan ng Mga Magsasaka (MASAKA) among the peasantry; the Kabataang Makabayan (KM) among the youth/students; and the Movement for the Advancement of Nationalism (MAN) among the intellectuals/professionals, the PKP has exerted all-out effort to infiltrate, influence and utilize these organizations in promoting its radical brand of nationalism.”

“Meanwhile, the Communist leaders in the Philippines had been split into two (2) groups, one of which composed mainly of young radicals, constituting the Maoist faction -reorganized the Communist Party of the Philippines early in 1969 and established a New People’s Army. This faction adheres to the Maoist concept of the ‘Protracted People’s War’ or ‘War of National Liberation.’ Its ‘Programme for a People’s Democratic Revolution’ states, inter alia:

“The Communist Party of the Philippines is determined to implement its general programme for a people’s democratic revolution. All Filipino communists are ready to sacrifice their lives for the worthy cause of achieving the

new type of democracy, of building a new Philippines that is genuinely and completely independent, democratic, united, just and prosperous . . .

“The Central task of any revolutionary movement is to seize political power. The Communist Party of the Philippines assumes this task at a time that both the international and national situations are favorable to taking the road of armed revolution...’

“In the year 1969, the NPA had-according to the records of the Department of National Defense-conducted raids, resorted to kidnappings and taken part in other violent incidents numbering over 230, in which it inflicted 404 casualties, and, in turn, suffered 243 losses. In 1970, its record of violent incidents was about the same, but the NPA casualties more than doubled.

“At any rate, two (2) facts are undeniable: (a) all Communists, whether they belong to the traditional group or to the Maoist faction, believe that force and violence are indispensable to the attainment of their main and ultimate objective, and act in accordance with such belief, although they disagree on the means to be used at a given time and in a particular place; and (b) there is a New People’s Army, other, of course, than the armed forces of the Republic and antagonistic thereto. Such New People’s Army is per se proof of the existence of a rebellion, especially considering that its establishment was announced publicly by the reorganized CPP. Such announcement is in the nature of a public challenge to the duly constituted authorities and may be likened to a declaration of war, sufficient to establish a war status or a condition of belligerency, even before the actual commencement of hostilities.

“We entertain, therefore, no doubts about the existence of a sizeable group of men who have publicly risen in arms to overthrow the government and have thus been and still are engaged in rebellion against the Government of the Philippines.”

x x x x x x x x x x x x

“WHEREAS, the Supreme Court in its said decision concluded that the unlawful activities of the aforesaid lawless elements actually pose a clear, present and grave danger to public safety and the security of the nation and in support of that conclusion found that:

“x x x the Executive had information and reports-subsequently confirmed, in many respects, by the above-mentioned Report of the Senate Ad Hoc Committee of Seven -to the effect that the Communist Party of the Philippines does not merely adhere to Lenin’s idea of a swift armed uprising; that it has, also, adopted Ho Chi Minh’s terrorist tactics and resorted to the assassination of uncooperative local officials ; that, in line with this policy, the insurgents have killed 5 mayors, 20 barrio captains and 3 chiefs of police; that there were fourteen (14) meaningful bombing incidents in the Greater Manila area in 1970; that the Constitutional Convention Hall was bombed on June 12, 1971; that, soon after the Plaza Miranda incident, the N A W ASA main pipe at the Quezon City San Juan boundary, was bombed; that this was followed

closely by the bombing of the Manila City Hall, the COMELEC Building, the Congress Building and the MERALCO substation at Cubao, Quezon City; and that the respective residences of Senator Jose J. Roy and Congressman Eduardo Cojuangco were, likewise, bombed, as were the MERALCO main office premises, along Ortigas Avenue, and the Doctor's Pharmaceuticals, Inc. Building, in Caloocan City.

" x x x the reorganized Communist Party of the Philippines has, moreover, adopted Mao's concept of protracted people's war, aimed at the paralyzation of the will to resist of the government, of the political, economic and intellectual leadership, and of the people themselves; that conformably to such concept, the Party has placed special emphasis upon a most extensive and intensive program of subversion by the establishment of front organizations in urban centers, the organization of armed city partisans and the infiltration in student groups, labor unions, and farmer and professional groups; that the CPP has managed to infiltrate or establish and control nine (9) major labor organizations; that it has exploited the youth movement and succeeded in making Communist fronts of eleven (11) major student or youth organizations;. that there are, accordingly, about thirty (30) mass organizations actively advancing the CPP interests, among which are the Malayang Samahan ng Magsasaka (MASAKA) , the Kabataang Makabayan (KM) , the Movement for the Advancement of Nationalism (MAN) , the Samahang Demokratiko ng Kabataan (SDK) , the Samahang Molave (SM) , and the Malayang Pagkakaisa ng Kabataang Pilipino (MPKP) ; that, as of August, 1971, the KM had two hundred forty-five (245) operational chapters throughout the Philippines, of which seventy-three (73) were in the Greater Manila Area, sixty (60) in Northern Luzon, forty nine (49) in Central Luzon, forty-two (42) in the Visayas and twenty-one (21) in Mindanao and Sulu; that in 1970, the Party had recorded two hundred fifty-eight (258) major demonstrations, of which about thirty-three (33) ended in violence, resulting in fifteen (15) killed and over five hundred (500) injured; that most of these actions were organized, coordinated or led by the aforementioned front organizations; that the violent demonstration were generally instigated by a small, but well-trained group of armed agitators; that the number of demonstrators heretofore staged in 1971 has already exceeded those of 1970: and that twenty-four (24) of these demonstrations were violent and resulted in the death of fifteen (15) persons and the injury of many more.

"Subsequent events xxx have also proven xxx the threat to public safety posed by the New People's Army. Indeed, it appears that, since August 21, 1971, it had in Northern Luzon six (6) encounters and staged one (1) raid, in consequences OJ which seven (7) soldiers lost their lives and two (2) other: were wounded, whereas the insurgents suffered five (5) casualties; that on August 26, 1971, a well-armed group of NPA trained by defector Lt. Victor Corpus, attacked the very command post of TF LAWIN in Isabel, destroying two (2) helicopters and one (1) plane, and wounding one (1) soldier that the, NPA had in Central Luzon a total of four (4) encounters, with two (2) killed and three .(3) wounded on the side of the Government, one (1) BSDU killed and three (3) KM-SDK leaders, an unidentified dissident, and Commander Panchito, leader of the dissident group were killed; that on August 26, 1971, there

was an encounter in the barrio of San Pedro, Iriga City, Camarines Sur, between the PC and the NPA, in which a PC and two (2) KM members were killed, that the current disturbances in Cotabato and the Lanao provinces have been rendered more complex by the involvement of the CPP /NPA, for, in mid-1971, a KM group, headed by Jovencio Esparagoza, contacted the Higa-onan tribes, in their settlement in Magsaysay, Misamis Oriental, and offered them books, pamphlets and brochures of Mao Tse Tung, as well as conducted teach-ins in the reservation; that Esparagoza was reportedly killed on September 22, 1971, in an operation of the PC in said reservation; and that there are now two (2) NPA cadres in Mindanao.

“It should, also, be noted that adherents of the CPP and its front organizations are, according to intelligence findings, definitely capable of preparing powerful explosives out of locally available materials; that the bomb used in the Constitutional Convention Hall was a ‘Claymore’ mine, a powerful explosive device used by the U.S. Army, believed to have been one of many pilfered from the Subic Naval Base a few days before; that the President had received intelligence information to the effect that there was a July-August Plan involving a wave of assassinations, kidnappings, terrorism and mass destruction of property and that an extraordinary occurrence would signal the beginning of said event; that the rather serious condition of peace and order in Mindanao, particularly in Cotabato and Lanao, demanded the presence therein of forces sufficient to cope with the situation; that a sizeable part of our armed forces discharges other functions; and that the expansion of the CPP activities from Central Luzon to other parts of the country, particularly Manila and its suburbs, the Cagayan Valley , Ifugao, Zambales, Laguna, Quezon and the Bicol Region, required that the rest of our armed forces be spread thin over a wide area.”

“x x x x x x x x x x x x

On 17 January 1973, approximately four months after declaring Martial Law, President Ferdinand E. Marcos issues Proclamation No. 1102, *“Announcing the Ratification by the Filipino People of the Constitution Proposed by the 1971 Constitutional Convention”* which essentially declares that the 1973 Constitution has been "ratified by an overwhelming majority of all the votes cast by the members of all the barangays (citizens' assemblies) throughout the Philippines..." On 20 January 1973, Josue Javellana, as a "Filipino citizen, and a qualified and registered voter" and in "a class suit," for himself, and in behalf of all citizens and voters similarly situated, submits a petition before the Supreme Court praying that the Executive Secretary and the Secretaries of National Defense, Justice and Finance be restrained from implementing any of the provisions of the proposed Constitution not found in the 1935 Constitution. The Petition alleges that said government officials are acting without, or in excess of jurisdiction in implementing the proposed Constitution" upon the directive of the President, who is without authority to create the Citizens Assemblies" (as a mode of ratifying the Constitution in lieu of a plebiscite). According to the petitioner, these assemblies "are without power to approve the proposed Constitution ...", "that the President

is without power to proclaim the ratification by the Filipino people of the proposed Constitution"; and "that the election held to ratify the proposed Constitution was not a free election, hence null and void."

Among the six issues identified is whether or not the question of the validity of Proclamation No. 1102 is a political question which is defined as "a matter which is to be exercised by the people in their primary political capacity, or that which has been specifically delegated by them to some other department or particular officer of the government, *with discretionary power to act*; or, simply put, that which is concerned with issues dependent upon the *wisdom, not legality*, of a particular measure." In resolving the issue, the Supreme Court holds that the issue of the validity of the proclamation announcing the ratification of the 1973 Constitution is not a political question; rather, it is a justiciable one. The conclusion is based on the principle of separation of powers which goes hand-in-hand with the system of checks and balances. Considering that the determination of whether the Constitution proposed by the 1971 Constitutional Convention has been validly ratified calls for an interpretation of Article XV of the 1935 Constitution, the task falls within the Supreme Court's valid of exercise of judicial power. Having held that it has the authority to decide on the issue, the Supreme Court proceeds to uphold Proclamation No. 1102 -- "This being the vote of the majority, there is no further judicial obstacle to the new Constitution being considered in force and effect" (*Javellana vs. Executive Secretary, G.R. No. L036142, 31 March 1973*).

The *Javellana* decision has effectively allowed the 1973 Philippine Constitution to come into full force and has remained the cornerstone of subsequent decisions upholding the validity of the 1973 Constitution. In 1981, the Supreme Court, again faced with the question of whether the continuation of martial law is justified, maintains that it is, citing the events that are recited in the different "whereases" of Proclamation No. 1081 as a matter of "common knowledge" and confirming that the state of rebellion continues up until the present (*In the Matter of the Application for a Writ of Habeas Corpus of Bernabe Buscayno vs. Hon. Juan Ponce Enrile, Secretary of National Defense; General; Romeo C. Espino, Chief of Staff, AFPI Gen Fidel V. Ramos, Chief, PC Military Commission No. 2, and Col. Miguel Aure, Philippine Constabulary, respondents*).

During the next decade, cases decided by the Supreme Court dealing with petitions for *habeas corpus*, warrantless arrests, and other rights under the Bill of Rights, usually involving suspected members of the CPP-NPA, are marked by an adherence to the "continuing offense doctrine." The continuing offense doctrine as a justification for warrantless arrests of members of subversive organizations such as the CPP is discussed in "*In the Matter of Petition for Habeas Corpus of Roberto Umil, et. al., (G.R. No. 81567, 03 October 1991)*". In this case, the Supreme Court, in addition to applying Section 5 of Rule 113, expounds on "knowing and active membership through overt acts", and citing the doctrine as espoused in *Garcia vs. Enrile, (L-61388, April 20, 1983, 121 SCRA 472)* holds

that warrantless arrests of members of the NPA which is an outlawed organization is valid even if the person is not caught committing an overt act, for the reason that membership of an outlawed organization, where membership is penalized, is a continuing offense. Thus:

“The crimes of insurrection or rebellion, subversion, conspiracy or proposal to commit such crimes and other crimes and offenses committed in the furtherance or on the occasion hereof, or incident thereto, or in connection therewith, under Presidential Proclamation No. 2045 are all in the nature of continuing offenses which set them apart from the common offenses aside from their essentially involving a massive conspiracy of nationwide magnitude.

“Given the ideological content of membership in the CPP/NPA, which includes armed struggle for the overthrow of organized government, Dural (the accused) did not cease to be, or become less of a subversive for purposes of arrest, simply because he was, at the time of the arrest confined in the St. Agnes Hospital. Dural was identified as one of the several persons who, the day before his arrest without warrant, at the St. Agnes Hospital, had shot two (2) CAPCOM policemen in their patrol car. That Dural had shot the two policemen in Caloocan City as part of his mission as a sparrow (NPA member) did not end there and then. Dural, given another opportunity would have shot, or would shoot other policemen anywhere as agents or representatives of organized government x x x”

In his separate opinion, Justice Isagani Cruz expresses concern over the possible danger that is brought about by the *continuing crime doctrine* -- “Under the doctrine announced in *Garcia-Padilla* however, all persons suspected as rebels are by such suspicion alone made subject to summary arrest no different from the unceremonious capture of an enemy soldier in the course of a battle. The decision itself says that the arrest need not follow the usual procedure in the prosecution of offenses and that the absence of judicial warrant is no impediment as long as the person arrested is suspected by the authorities of the continuing offense or subversion or rebellion or other related crimes.” Cruz describes the application of Section 5 of Rule 113 on valid warrantless arrests as being unjustified as the arresting officers are unable to demonstrate probable cause. “Probable cause” which is established by surveillance or “confidential information” do not suffice. Probable cause must be established to justify the issuance of a warrant, not to dispense with it; moreover, probable cause must be determined by the judge issuing the warrant, not the arresting officer who says it is not necessary. Moreover, the arrest does not meet the requirement of “immediacy” as considerable time has elapsed since the crime is allegedly committed.

Another issue which is consistently brought before the Supreme Court pertains to the jurisdiction of military tribunals over civilians. In *the Matter of the Application for a Writ of Habeas Corpus of Bernabe Buscayno, vs. Hon. Juan Ponce Enrile, Secretary of National Defense, G.R. No. L-47185 January 15, 1981*), the Supreme Court upholds the competence of a military commission to

try not only members of the armed forces but also civilian offenders (despite the fact that civil courts are open and functioning normally). It likewise upholds validity of the proceedings of the tribunals as long as due process requirements of due notice, an essentially fair and impartial trial and a reasonable opportunity for the preparation of the defense, are attendant (*Ibid*). Claims of violation of the right to speedy trial while under preventive detention are however, dismissed on the ground that the proclamation of martial law and the concomitant suspension of the privilege of the writ of habeas corpus have rendered said rights “unavailing.” (*Jose Luneta, et. al., vs. Special Military Commission No. 1, G.R. No. L-49473, January 16, 1981*).

Decades later, approximately 20 years after the end of the Marcos administration, President Gloria Macapagal-Arroyo, on 24 February 2006, issues Presidential Proclamation No. 1017 and General Order No. 5 declaring a state of national emergency. The Proclamation cites as basis “elements in the political opposition (who) have conspired with authoritarians of the extreme Left represented by the NDF-CPP-NPA and the extreme Right, represented by military adventurists — the historical enemies of the democratic Philippine State — who are now in a tactical alliance and engaged in a concerted and systematic conspiracy, over a broad front, to bring down the duly constituted Government elected in May 2004.” Noticeably, President Macapagal-Arroyo’s Proclamation 1017 contains echoes of President Marcos’ Presidential Proclamation No. 1081, two decades earlier, which partly reads:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines by virtue of the powers vested upon me by Article VII, Section 10, Paragraph (2) of the Constitution, do hereby place the entire Philippines as defined in Article 1, Section 1 of the Constitution under martial law and, in my capacity as their Commander-in-Chief, **do hereby command the Armed Forces of the Philippines, to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and decrees, orders and regulations promulgated by me personally or upon my direction. x x x x**

Once again the Supreme Court is confronted with the issue of the assailed validity of a presidential edict, this time, Presidential Proclamation No. 1017 and General Order No. 5 – both for allegedly having been issued without factual basis. The High Court’s decision in *Prof. Randolph S. David, et. al., vs. Gloria Macapagal-Arroyo, et. al., (G.R. No. 171396, 03 May 2006)*, departs from the “volatile era” of *Lansang vs. Garcia, Aquino Jr., vs. Enrile and Garcia-Padilla vs. Enrile*, towards a more balanced approach to its duty of judicial review, in relation to the powers of the executive –

“The 1986 Constitutional Commission, in drafting the 1987 Constitution, endeavored to create a government in the concept of Justice Jackson’s “balanced power structure.” Executive, legislative, and judicial powers are dispersed to the President, the Congress, and the Supreme Court,

respectively. Each is supreme within its own sphere. **But none has the monopoly of power in times of emergency. Each branch is given a role to serve as limitation or check upon the other.** This system does not **weaken** the President, it just **limits** his power, using the language of McLain. In other words, in times of emergency, our Constitution reasonably demands that we repose a certain amount of faith in the basic integrity and wisdom of the Chief Executive but, at the same time, **it obliges him to operate within carefully prescribed procedural limitations.**”

While the Court believes that President Arroyo’s exercise of the calling-out power, by issuing PP 1017, is not totally unjustified, as the President is not expected to simply fold her arms and do nothing to prevent or suppress what she believes is lawless violence, invasion or rebellion, it is also held that the exercise of such power or duty must not stifle liberty. The President cannot issue decrees similar to those issued by Former President Marcos under PP 1081; and, to this extent, Presidential Proclamation No. 1017 is unconstitutional insofar as it grants President Arroyo the authority to promulgate "decrees." Presidential decrees are laws of the same category and with the same binding force as statutes because they are issued by the President in the exercise of his legislative power during the period of Martial Law under the 1973 Constitution. Under the present Constitution however, legislative power is peculiarly within the province of the Legislature; the president has no authority to enact decrees. It therefore follows that these decrees are void and, therefore, cannot be enforced. The President however, as the Commander in Chief, can order the military, under PP 1017, to enforce laws pertinent to its duty to suppress lawless violence.

In sum, while the Supreme Court finds Presidential Proclamation 1017 constitutional insofar as it constitutes a call by President Mapacapagal-Arroyo for the AFP to prevent or suppress lawless violence, its extraneous provisions giving her express or implied power (1) to issue decrees; (2) to direct the AFP to enforce obedience to all laws even those not related to lawless violence as well as decrees promulgated by the President; and (3) to impose standards on media or any form of prior restraint on the press, are *ultra vires* and therefore, unconstitutional. Moreover, under Section 17, Article XII of the Constitution, the President, in the absence of legislation, cannot take over privately-owned public utility and private business affected with public interest.

VIII. Assessing the CPP-NPA under Section 17 of HSA 2007

Section 17 of the HSA defines a “terrorist organization, association, or group of persons” as that which is organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts mentioned in this Act or commits acts to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand x x x”

The primordial issue put forth in the present Petition calls on this Court to determine whether or not the Petitioner has established, by sufficient evidence,

the following definitional elements of a terrorist organization, association or group of persons:

1. An organization, association or group of persons
2. Organized for the purpose of engaging in terrorism; or,
3. if not so organized –
 - i. actually uses acts enumerated in the Act in order to terrorize; or,
 - ii. actually uses acts to sow and create a condition of widespread and extraordinary fear and panic among the populace
4. With the purpose of coercing the government to give in to an unlawful demand.

The Court will now proceed to examine the respondent organizations under the foregoing definitional elements.

1. An organization, association or group of persons

The definitional element of an extant “organization,” or “association” or a “group of persons” does not necessarily require that there be a specific number of persons comprising the organization, association or group. The words “organization” and “association” however, while interchangeably used, are distinct from each other -- **an association is an informal group of people sharing similar interests, whereas an organization is a group of people with a definitive purpose, with clearly defined roles and responsibilities.** In other words, “organization” connotes a group of more than one persons characterized by a more formal structure and hierarchy. On the other end, the word “group” is a set of individuals, with no reference to any formal structure or hierarchy.

Under this definitional requirement, the CPP and the NPA indubitably qualify as “organizations.” Based on the testimonies of witnesses, their membership cuts across different sectors and social classes – from farmers, workers, students, academics, professionals, politicians, to name a few, as well as a membership that is scattered in different areas of the country – from Luzon (primarily in Bulacan, Laguna, Quezon, Bicol and in the urban center of Metro Manila), Visayas (Iloilo, Cebu, Bohol, Leyte and Samar) and Mindanao (Surigao, Cagayan de Oro, Misamis Occidental, Bukidnon, Davao, Agusan del Sur).

Likewise, evident is a nationwide membership fortified by a well-established, hierarchical and organizational structure. In 1974, Jose Maria Sison, in his article, “Specific Characteristics of Our People’s War”, establishes the “policy of centralised leadership and decentralised operations.” This is also corroborated in accounts of former members which point to a regimented organization, with clearly defined regional subdivisions and committees, and each with clearly-defined jurisdiction and functions. Hierarchy is evidenced by

testimonies of centralized “orders or directives” coming from the higher places in the hierarchy such as the Central Committee, which are transmitted for implementation to those in the lower echelon.

Article IV of the Constitution and Program of the Communist Party of the Philippines (2016) on Principle and Structure of Party Organization (*Exhibit HHHHHH-1*) outlines a structure based on “democratic centralism” or centralism based on democracy and democracy under a centralized leadership (*Section 1, Article IV, Constitution of the Communist Party of the Philippines*) – the individual is subordinate to the organization; the minority is subordinate to the majority; the lower level is subordinate to the higher level; and, the entire membership is subordinate to the Central Committee and to the National Congress (*Section 1(b)*). Party organization is based on territorial division or sphere of work.⁷⁶ Supreme leadership of the entire party rests on the National Congress which in turn, elects the members of the Central Committee (*Section 5, Rule IV*).

The Central Committee, the Political Bureau or Executive Committee make decisions and issue statements on major new initiatives and on questions of policy that are of national and international character. Lower party organizations and leading organs can submit their opinions to central leading organs and may make their own decisions and issue their own statements on local matters within their territorial scope (*Section 12, Article IV*). They may hold various types of meetings, seminars or conferences to review or plan their work or discuss decisions of higher party organs (*Section 10, Article IV*). They may also freely discuss issue(s) and put forward proposals to the leading party organ. However, after a decision has been taken, they must abide by it. If, in their opinion, the decision does not accord with the conditions in a certain territory or sphere of work, they may request for reconsideration. If, despite the request, the higher party stands by its decision, the lower party organizations are obliged to carry it out (*Section 11, Article IV*).

2. Said organization, association or group of persons is organized for the purpose of engaging in terrorism.

In making a determination of whether or not the CPP and the NPA are organized for the purpose of engaging in terrorism, the Court reviews the definitional elements of “terrorism” as exemplified under HSA 2007. Section 3 of HSA 2007 defines “terrorism” as the commission of any of the acts enumerated there under, *i.e.*, piracy and mutiny in the high seas, rebellion or insurrection, coup d’ etat, murder, kidnapping and serious illegal detention, crimes involving destruction of property such as arson, use of toxic substances and hazardous

⁷⁶ The structure of party organization consists of organizations, conferences and committees in the regional, provincial, regular district and large city district levels. For the municipality level, structure consists of section party organization, section conference and section committee. For factories, mines, plantations or haciendas, barrios, streets, offices, schools, sitios with large population and other places of works such as terminals, markets, piers and residential areas, there will be a part branch, branch meetings and branch executive committee (*Section 3, Article IV*).

nuclear waste, hijacking, piracy and highway robbery and the illegal manufacture, acquisition, disposition and possession of firearms – “thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand.”

The question of whether the foregoing definitional elements of a terrorist organization are extant in the present case, necessarily gives rise to the following points of inquiry –

1. What is the purpose for the establishment of the CPP-NPA? Were the respondent organizations organized for the purpose of engaging in terrorism?
2. Do the acts committed by its members qualify as “terrorist” acts?
 - a. Have they caused widespread fear and panic among the populace?
 - b. Have they been committed for the purpose of coercing the government to give in to an unlawful demand?

In determining the purpose of the creation of the CPP, the Court refers to the second document which is attached to its Constitution of the CPP and therefore forming part thereof, *i.e.*, “The Program for a People’s Democratic Revolution” and “Our Specific Program” (*Exhibits HHHHHH71-85; 86-95*). As outlined in the CPP’s general program for the Filipino people, the ultimate goal of the CPP is the achievement of a People’s Democratic Revolution that is aimed to

–

1. Bring about a new Philippines that is completely independent, democratic, united, just and prosperous;
2. Put an end to the semi-colonial and semi-feudal system;
3. Advance the revolutionary leadership of the proletariat and be at the core of the revolutionary mass movement of the basic toiling masses of workers and peasants and in the middle social strata;
4. Fight to overthrow the reactionary state and the reactionary classes behind it;
5. Empower the people, especially the toiling masses and establish a people’s democratic government, a coalition or united front government of the working class, peasantry, the urban petty bourgeoisie and middle bourgeoisie;
6. Establish a self reliant economy free from foreign monopoly capitalism and feudalism;
7. Carry out a genuine and thoroughgoing land reform;
8. Undertake national industrialization;
9. Guarantee a just and prosperous people’s livelihood;
10. Conserve the national patrimony and protect the environment;
11. Make social construction possible;

In the Military Field

12. Command and build the NPA as the main instrument of the People for smashing – through a people's war – the bureaucratic and military bourgeoisie of the joint class dictatorship of the comprador big bourgeoisie and the landlord class;
13. Enable the current organs of political power to develop the people's democratic state to arise on the basis of local organ of political power;

In the Cultural Field

14. Promote among the people a national scientific and mass system of culture and education and combat all counterrevolutionary trends of thought through campaigns of education and information and with due respect to freedom of thought and belief;
15. Intensify the patriotic spirit of the Filipino people against imperialism and colonial mentality;
16. Cherish national cultural heritage;
17. Promote scientific education over superstition and obscurantism;
18. Ensure that science and technology serve the Filipino nation and its drive for all-around development;
19. Expand free public education;

In the Field of Foreign Relations

20. Realize an actively independent and peace-loving foreign policy and develop relations at the level of countries, peoples;
21. Parties and governments under the guidance of proletarian internationalism,
22. Give priority to fraternal relations with revolutionary forces and movements abroad that are fighting for national liberation, peace and development against imperialism;
23. Develop diplomatic and trade relations with all friendly countries regardless of ideology and social system, in accordance with the policy of peaceful coexistence.

The document summarizes the foregoing into a Ten-Point Program, as follows:

1. Overthrow the Forces of US Imperialist and Feudal Oppression
2. Establish a People's Democratic State and a Coalition Government
3. Fight for National Unity and Democratic Rights
4. Uphold the Principle of Democratic Centralism
5. Build and Cherish the New People's Army
6. Solve the Land Problem
7. Carry out National Industrialization
8. Promote a National Scientific and Mass Culture
9. Respect the Right to Self-Determination of the Bangsamoro and Other National Minorities
10. Adopt an Active and Independent Foreign Policy

The Program of the CPP which is also synonymous with “Plan of Action”, can be construed as the respondent organizations’ “purpose for being,” or the very reasons for its establishment. A perusal of the foregoing Program, consisting of lofty ideals readily shows that the CPP-NPA is organized or exists, not for the purpose engaging in terrorism.

It is not difficult to see how the CPP-NPA’s resort to “armed struggle” and the violence that necessarily accompanies the same, as the sanctioned means to achieve its purpose(s) may have earned the CPP-NPA the terrorist label. Indeed, witness accounts of former members and official documents point to the fact that ‘armed struggle” is essentially built into the structure of the CPP itself as the recognized and prescribed means to achieve its ends. This is apparent from the CPP’s official act of creating the NPA which it describes as the “mighty sword of the people in a protracted people’s war against foreign and feudal domination,” and the “main weapon of the party in the seizure and consolidation of political power” (*Article IX, The Party’s Relationship with the New People’s Army*).

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

In determining whether or not the respondent organizations have committed acts which will qualify as “terrorist acts,” this Court has confined the scope of its assessment to the following nine (9) incidents of atrocities allegedly committed by members of the CPP-NPA against civilians as have been testified to by the petitioner’s witnesses:

- i. The 31 December 2019 killing of Bontola Mansinugdan in Agusan del Sur;
- ii. The 19 March 2020 killing of Datu Astudillo and Zaldy Ibañez in Sitio Inadan, Barangay Magroyong, San Miguel, Surigao del Sur;
- iii. The 04 October 2020 ambush of Datu Jumar Bucales and company at Sitio Mamprasanon, Barangay Banahao, Lianga, Surigao del Sur;
- iv. The 06 July 2020 killing of Datu Jomar Engayas in Sitio Sangay, Barangay Libas-sud, San Miguel, Surigao del Sur;
- v. The 16 October 2020 failed attempt to kill DepEd Teacher Eli Apacible, at Purok Hitaon, Barangay Awasian, Tandag City, Surigao del Sur;
- vi. The 13 August 2020 killing of 70-year-old Datu Benedicto Dinoy, in Dumalaguing Village, Impasugong, Bukidnon;

- vii. The 28 May 2020 burning of chapel and residential houses, in Barangay Limunda, Opol, Misamis Oriental;
- viii. The 30 May 2019 abduction of seven civilians, including Ryard Badiang who was later beheaded, in Barangay Maitum, Tandag City, Surigao del Sur; and,
- ix. The 21 July 2020 killing of Datu Saidor Balansi, at Sitio KM 18, Barangay Besigan, Cagayan de Oro City.

The eyewitness accounts of the foregoing alleged “terrorist” acts of the CPP-NPA leave little or no doubt that the foregoing acts constitute crimes defined under the Revised Penal Code and Other Special Penal Laws and enumerated in Section 3 of HSA 2003 as comprising terrorism, particularly the crimes of rebellion, murder, kidnapping, abduction, arson and serious illegal detention.

Authorship of the acts

It is notable that the eyewitnesses’ identification of the perpetrators in the foregoing incidents is primarily based on the clothing the latter were wearing. When asked how they were certain that the perpetrators were members of the NPA, many of the witnesses unflinchingly pointed to the suspects’ all-black ensemble. Moreover, the perpetrators were unvaryingly described as carrying high-powered firearms.

This identification leaves much to be desired. Certainly, it takes more than a certain manner or mode of dressing to establish that one is a member of the CPP-NPA. In the absence of any evidence that the official uniform of the members of the CPP-NPA consists of an all-black outfit, this Court cannot give credence to the witnesses’ identification. Moreover, this identification is not exclusive, particularly in Mindanao where all the nine (9) incidents have occurred. Mindanao is known as a place teeming with other rebel armed groups – the MNLF, MILF, Abu Sayaff Group, Maute Group and a scattering of brigands who may also be known to carry firearms.

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

3. The acts are committed to sow and create a condition of widespread and extraordinary fear and panic among the populace.

At the onset, the Court finds the definitive terms “widespread” and “extraordinary”, vague – *What parameter is to be utilized to determine whether fear and panic is either “widespread” or “extraordinary?”*

Bereft of any critereon, the Court will resort to an interpretation of both words as they are regularly used. Synonymous with “widespread” are the words “pervasive” “extensive” or “prevalent” as opposed to “limited”, “confined” and “localized.” The adjective “extraordinary” on the other hand, is synonymous with “exceptional” or “remarkable” as opposed to “average” or “commonplace.”

The use of both adjectives in the sentence further gives us contextual clues of how they are intended to be interpreted. Both adjectives – “widespread” and “extraordinary,” are used in Sections 3 and 17 of HSA 2007 to qualify the nouns “fear” and “panic” which in turn, refer to the ultimate receiving noun which is “populace.” “Populace” is synonymous with the words “population” or the “general public.” As used in HSA 2007, “populace” does not make any reference to a particular place or locality. Thus, it could only refer to the population of the entire territorial jurisdiction of the Philippines where respondent organizations operate; meaning, the entire population of the country.

In sum, in determining whether or not the panic and fear is “widespread” and “extraordinary,” the Court will apply these qualifiers within the context of the Filipino “population.” Thus, a crime included in the enumeration in Section 3 of HSA 2007 may only be considered as having caused “widespread and extraordinary” fear and panic if it has affected a considerable number of the national “populace” which, based on year 2020 data, refers to approximately numbers 109,035,343 Filipinos living in the country (*Philippine 2020 Census, Philippine Statistics Authority*). Moreover, feelings of “fear and panic” must not only be pervasive among the populace, they must be likewise “exceptional” or “remarkable.”

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

Guerrilla warfare

Perhaps contributing to the low-impact effect of the foregoing atrocities is the CPP-NPA's chosen battle strategy which is guerrilla warfare within the context of a protracted people's war.

A growing consensus among experts, points to the type or kind of violence employed by an individual or group, as being a crucial element in determining whether an act is an act of terrorism. Undeniably, the effect of a terrorist act on the populace to which is it directed is largely determined by the nature of the violence employed. Terrorism being identified with a disquieting display of violence meant to cause maximum shock and awe is reflected in the definitional requirements in the HSA, particularly in Section 3's usage of the words "extraordinary" and "widespread." This effectively precludes "guerrilla warfare" or small-time warfare. The term "guerrilla" (little war) refers to the classic strategy of hit-and-run warfare that is fought by guerrilla fighters or a numerically large group of armed individuals who operate as a military unit. Guerilla forces attack enemy military forces and seize and hold territory (even if only ephemerally during the daylight hours) while also exercising some form of sovereignty or control over the defined geographical area and its population. An important distinction has been identified by experts: **guerrilla warfare is not synonymous with terrorism.** (*Gus Martin, "Understanding Terrorism, Challenges, Perspectives and Issues", 4th Edition, Sage Publications, Inc., (2013), pp. 35-36).*

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

4. The acts are committed to coerce the government to give in to an unlawful demand.

The Court's task of determining whether the respondent organizations are terrorist organizations further calls for a determination of whether or not the definitional requirements, *i.e.*, – 1) that the acts be for the purpose of coercing the government; 2) to give in to an unlawful demand – are attendant.

As this Court has found, the nine (9) incidents of atrocities having had only minimal impact on the larger population can therefore only be considered as ripples in a much larger pond, certainly far from reaching the "widespread" or "extraordinary" proportions sufficient to "coerce" the government to give in to any demand, much less, an unlawful demand. Even if one assumes that these incidents have managed to hold the government's attention, the petitioner's evidence has yet to establish that these incidents were meant to coerce the government to give in to the perpetrator's "demand." More particularly, it remains to be shown that immediately prior to, contemporaneous with, or immediately after, the commission of the "terrorist act(s)", the CPP or the NPA has made any "demand" to the government.

During the trial proceedings in this Petition, the Court had asked almost all of the petitioner's witnesses the same question – *What could have been the purpose of the perpetrators in committing the alleged “terrorist acts”, in the absence of any testimony pertaining to any “demand” that accompany these atrocities?* The witnesses' answers to the query are almost always identical – the atrocities are intended to sow fear among the members of their community in order to discourage them from supporting the military. Assuming this is true – this “purpose” does not approximate the definitional requirement of an act to qualify it as a terrorist act under Sections 3 and 17 of HAS 2007, *i.e.*, to coerce the government so that it may give in to an unlawful demand. “Sowing fear” among members of a community, without more, cannot be construed as a “demand.”

When the same query is posed by this Court to Petitioner's counsel, his response makes reference to the dual tactics of respondent organizations. According to him, the atrocious acts are intended to cause an atmosphere of intensified armed encounters between the members of the military and the NPA so as to force the government to propose peace negotiations with the CPP-NPA. Purportedly, the CPP-NPA demand “peace negotiations” not because they desire peace but because they seek the concessions that an ongoing peace negotiation brings with it, particularly the leverage to demand from the government – *first*, the release from prison of their high-ranking members; and, *second*, a period of cessation of armed fighting between the government troops and NPA members which period will be utilized by the respondent organizations as a time to intensify recruitment, to regroup, and to recharge.

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

Even if the Court will infer the CPP-NPA's demand from the “Ten Point Program” annexed to the 2016 Constitution of the Communist Party of the Philippines, Petitioner has failed to show how any of the following constitutes an “unlawful demand”, *i.e.*,

1. Overthrow the Forces of US Imperialist and Feudal Oppression
2. Establish a People's Democratic State and a Coalition Government

3. Fight for National Unity and Democratic Rights
4. Uphold the Principle of Democratic Centralism
5. Build and Cherish the New People's Army
6. Solve the Land Problem
7. Carry out National Industrialization
8. Promote a National Scientific and Mass Culture
9. Respect the Right to Self-Determination of the Bangsamoro and Other National Minorities
10. Adopt an Active and Independent Foreign Policy

Some items in the foregoing Ten-Point Program of the CPP, at face value, are reasonable aspirations of any civilized society. Any demand that the CPP-NPA may make on the government along the foregoing "goals" that comprise its Program remains to be established as an unlawful demand.

Other atrocities testified to by Petitioner's witnesses cannot be considered terrorist acts under the HAS 2007.

During the proceedings, the petitioner has also presented evidence of other incidents of atrocities, particularly the purging incidents in various areas of the country, the liquidation of the members of the "rejectionist faction", incidents of violence connected with the collection of revolutionary taxes and the Plaza Miranda bombing.

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

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

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

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

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

The 1971 Plaza Miranda Bombing

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

According to Ruben Guevarra, the objective of the Plaza Miranda bombing was not to kill a specific person but to create an atmosphere of social unrest. True enough, the aftermath of the bombing had led President Ferdinand E. Marcos, to suspend the writ of habeas corpus and ultimately, to declare martial law. Ironically, it was during Martial Law, characterized by its suppression of individual rights when many joined the CPP-NPA. Starting in 1968 with more or less 60 members, the respondent organizations' unprecedented rise in membership happened during martial law.

Another purpose of the Plaza Miranda bombing, according to Guevarra, was to demonstrate to China, CPP's patron that the situation in the Philippines is ripe for a revolution. Allegedly, this was China's condition before it rendered the

much needed assistance to Filipino communists. The strategy was apparently a success because not long after, China sent arms to the Philippines on board the M/V Kapatiran which unfortunately sunk during a storm off the rocky coast of the Sierra Madre mountains. However, just like the purging incidents, the Plaza Miranda bombing had occurred prior to the HSA 2007 and therefore cannot qualify as a terrorist act. Classifying these acts as “terrorist acts” that will in turn qualify the CPP-NPA as terrorist organization would lead the Court to tread on constitutionally-infirm ground – that of applying provisions of a penal law to acts committed prior to the law’s enactment.

Terrorist Acts as Political Crimes

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

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

At this stage, it may be asked - When is a criminal act considered a political crime?

“Politics” encompasses activities undertaken in order to obtain and to use power in public life, and thereby be in a position to influence decisions that affect the society at large. To sociologists, a political act is an act by which one participates in politics, by which one seeks to influence or make decisions to make society conform to one’s ideals and aspirations that will best achieve the development of persons towards their full potential –

“The words *politics* and *political* refer back to the ancient Greek *polis* or city-state. For the Greek philosopher Aristotle (384–322 BCE), the polis was the ideal *political form* that collective life took. Political life was life oriented toward the “good life” or toward the collective achievement of noble qualities. The term “politics” referred simply to matters of concern to the running of the polis. Behind Aristotle’s idea of the polis is the concept of an autonomous, self-contained community in which people rule themselves. The people of the polis take it upon themselves to collectively *create* a way of living together that is conducive to the achievement of human aspirations and good life. **Politics** is the means by which form is given to the life of a people. The individuals give themselves the responsibility to create the conditions in which the good life can be achieved. For Aristotle, this meant that there was an ideal size for a polis, which he defined as the number of people that could be taken in in a single glance (Aristotle 1908). The city-state was for him therefore the ideal form for political life in ancient Greece.

“Today we think of the **nation-state** as the form of modern political life. A nation-state is a political unit whose boundaries are co-extensive with a society, that is, with a cultural, linguistic or ethnic *nation*. Politics is the sphere of activity involved in running the state. As Max Weber defines it, **politics** is the activity of “striving to share power or striving to influence the distribution of power, either among states or among groups within a state” (Weber 1919b, p. 78). x x x x”(William Little, “Introduction to Sociology”, 2nd Canadian Edition”, BC Campus, Open Education, October 2016).

Considering that resources are limited and distribution of wealth is uneven, coupled with the fact that ideals and values may vary from one group to another, a “political act” may entail a power struggle between people or groups. “Politics” is a process of maneuvering to assert rival interests. Stated simply – politics is about who gets what, when and how. Traditionally, politics is essentially settling contestation over the distribution of material goods. More recently, politics has taken a meaning that is more than being an issue of material distribution. The increasing salience of ‘post-ideological’ contestation around values and lifestyles suggests that politics is as much, or arguably more, about identity and culture as it is about material resources. Scholars have shown how politics is as much as about contestation over ways of framing or narrating policy problems, as it is about struggles over distribution. x x x x The point is that politics is a battle of ideas, in which participants attempt to control the narrative through tapping deep-rooted values and beliefs, rather than invoking objective self-interest. (Professor Christina Boswell, “What is Politics?”, *The British Academy*, 14 January 2020).

A review of the purpose(s) for the organization of the CPP-NPA as contained in its Constitution and important documents attached thereto leaves little or no doubt that these purpose(s) are “political” in character. There is little or no argument that the creation and organization of the CPP-NPA is impelled by a political motive – to overthrow the present government and create a new society which will carry out the “Ten-Point Program” as outlined in the official document annexed to the CPP’s 2016 Constitution, *i.e.*,

1. Overthrow the Forces of US Imperialist and Feudal Oppression
2. Establish a People's Democratic State and a Coalition Government
3. Fight for National Unity and Democratic Rights
4. Uphold the Principle of Democratic Centralism
5. Build and Cherish the New People's Army
6. Solve the Land Problem
7. Carry out National Industrialization
8. Promote a National Scientific and Mass Culture
9. Respect the Right to Self-Determination of the Bangsamoro and Other National Minorities
10. Adopt an Active and Independent Foreign Policy

That the CPP-NPA is a political organization with political goals is further evidenced by its 3-tiered recruitment process – from NDMO to the UGMO and finally to the CPP-NPA. As testified to by the petitioner's witnesses who were former members of the respondent organizations, unlike a common bandit in a band of gun-wielding brigands, an average NPA member is steeped in ideology. Specific courses have to be undertaken and completed before one progresses to the next level of recruitment. Thus it can be said that an NPA member engages in violence and employs force, not for violence's sake but in pursuit of the higher ideals contained in the Constitution of the CPP.

Under our laws, and subject to the rule against double jeopardy, a suspected member of the CPP-NPA committing a criminal offense that is included in the enumeration of terrorist acts under Section 3 of HSA 2007 can be prosecuted as an accused – 1) in an ordinary crime; 2) in the crime of rebellion; or, 3) under the provisions of ATA 2020 and, prior to its repeal, HSA 2007. This means that the State has more than one course of action in charging the perpetrators of these nine (9) incidents.

Our penal laws and jurisprudence have always been consistent in classifying "*political crimes*", defined as those directly aimed against the political order, as well as common crimes as may be committed to achieve a political purpose (*People vs. Hernandez, supra*), in a category of their own. Under the political offense doctrine, "common crimes, perpetrated in furtherance of a political offense, are divested of their character as "common" offenses and assume the political complexion of the main crime of which they are mere ingredients, and, consequently, cannot be punished separately from the principal offense, or complexed with the same, to justify the imposition of a graver penalty" (*People v. Hernandez, 99 Phil. 515, 541 (1956), cited in Satur Ocampo vs. Hon. Elhrem Abando, et. al., G.R. N. 176830*) Any ordinary act assumes a different nature by being absorbed in the crime of rebellion (*People v. Lovedioro, 320 Phil. 481, 489 (1995) cited in Satur Ocampo vs. Hon. Elhrem Abando, et. al., G.R. N. 176830*). These ordinary crimes cannot be punished separately from the principal offense or complexed with the same, to justify the imposition of a graver penalty (*See also People vs. Jose Lava, et. al., G.R. No. L-4974, May 16, 1969*). Thus, when a killing is committed in furtherance of rebellion, the killing is not homicide

or murder. Rather, the killing assumes the political complexion of rebellion as its mere ingredient and must be prosecuted and punished as rebellion alone. Having these crimes form part and parcel of, the rebellion, the accused, therefore, can only be convicted of only the simple crime of rebellion (*People vs. Abundio Romagosa alias David, G.R. No. L-8476, 28 February 1958*).

The reason for this seemingly lenient attitude towards rebels as compared to ordinary criminals is that the former is impelled only by a single criminal intent or motive. The Supreme Court had the occasion to expound on this point in 1956, when it was called to determine whether or not the accused, who were members of the Communist Party of the Philippines, can be charged with the crime of rebellion complexed with the ordinary crimes of murders, arsons, and robberies, for purpose of bail. In holding that the crime of rebellion cannot be complexed with ordinary crimes, the Supreme Court held – “(O)ne of the means by which rebellion may be committed under Article 135 of the Revised Penal Code is by engaging in war against the forces of government and committing serious violence in the prosecution of said “war.” These expressions imply everything that “war” connotes: resort to arms, requisition of property and services, collection of taxes and contributions, restraining of life and liberty, damage to property, physical injuries and loss of life, and the hunger, illness and unhappiness that war leaves in its wake. x x x x x being within the purview of “engaging in war” and “committing serious violence”, said resort to arms, with the resulting impairment or destruction of life and property, constitutes not two or more offenses, but only one crime – that of rebellion, plain and simple. x x x x The word “rebellion evokes not merely a challenge to the constituted authorities but also, civil war, on a bigger or lesser scale, with all the evils that go with it....(*People vs. Amado Hernandez, G.R. Nos. L-6025-26, 18 July 1956*).

The task of prosecuting an accused which includes deciding the offense to charge him or her falls on the prosecutorial arm of the government. The Courts can only defer to this prerogative of the prosecution. Thus, unless raised by the defense, the trial court can only make a determination of whether a “criminal act is committed in furtherance of rebellion” if it is alleged in the Information that the accused is a rebel and has committed the ‘crimes” pursuant to rebellion. In the present case, the prosecution’s decision to charge the perpetrators in these nine (9) incidents with ordinary criminal charges totally devoid of political context effectively renders these incidents weak evidence against herein respondents in the instant Petition. The State is now precluded from qualifying these acts as acts committed pursuant to the rebellion being waged by the CPP-NPA against it because by its nature, a terrorist organization can only commit terrorist acts through its individual members. This being said, this Court goes further to state that classifying what would be considered political crimes as terrorist acts, does not take them outside the ambit of “political crimes.”

The Difficulty of Defining Terrorism: Political Crimes are not Terrorist Acts

What then is the distinction between rebellion and terrorism?

Rebellion, as it is defined and penalized under Article 134 of the Revised Penal Code is committed by rising and taking up arms against the government for the purpose of removing the allegiance to said government or its laws, the territory of the Republic of the Philippines or any part thereof, of any body of land, naval, or other armed forces, or depriving the Chief Executive, the Legislature, wholly or partially of any of their powers or prerogatives. Rebellion is not always violent; it may be limited to simple defiance or resistance which does not necessarily employ force.

While both rebellion and terrorism may involve the use of violence, the violence in rebellion is directed against the government or any part thereof. Thus, rebels in a rebellion always target agents of the State such as the military or the police. Terrorism, on the other hand, is directed against the civilian population with the intent to cause the latter extraordinary and widespread fear and panic.

As to purpose, rebellion is with the end of removing allegiance to the government, or its laws, or a territory or part thereof, or for the purpose of depriving any of the three branches of government partially or wholly of their powers and prerogatives. Terrorism on the other hand, is for the purpose of forcing government to give in to an unlawful demand.

Prior to the enactment of the HSA of 2007, the Supreme Court has already noted the difficulty in arriving at a definition of "terrorism" – *How do we differentiate terrorism from ordinary acts of liberation movements? Or legitimate acts of national resistance or self-defense?* In striking down the constitutionality of a provision in General Order No. 5 issued by President Gloria Macapagal-Arroyo on 24 February 2006, the Supreme Court in *Prof. Randolph S. David, et. al., vs. Gloria Macapagal-Arroyo, et. al., (G.R. No. 171396, 03 May 2006)*, notes the absence of an exact definition of "terrorism" which in effect, gives the President the sole discretion to define what acts constitutes terrorism. It holds, thus:

"In fact, this "definitional predicament" or the "absence of an agreed definition of terrorism" confronts not only our country, but the international community as well. The following observations are quite apropos:

"In the actual unipolar context of international relations, the "fight against terrorism" has become one of the basic slogans when it comes to the justification of the use of force against certain states and against groups operating internationally. Lists of states "sponsoring terrorism" and of terrorist organizations are set up and constantly being updated according to criteria that are not always known to the public, but are clearly determined by strategic interests.

"The basic problem underlying all these military actions – or threats of the use of force as the most recent by the United States against Iraq – consists in the absence of an agreed definition of terrorism.

“Remarkable confusion persists in regard to the legal categorization of acts of violence either by states, by armed groups such as liberation movements, or by individuals.

“The dilemma can be summarized in the saying "One country's terrorist is another country's freedom fighter." The apparent contradiction or lack of consistency in the use of the term "terrorism" may further be demonstrated by the historical fact that leaders of national liberation movements such as Nelson Mandela in South Africa, Habib Bourguiba in Tunisia, or Ahmed Ben Bella in Algeria, to mention only a few, were originally labelled as terrorists by those who controlled the territory at the time, but later became internationally respected statesmen.

“What, then, is the defining criterion for terrorist acts – the *differentia specifica* distinguishing those acts from eventually legitimate acts of national resistance or self-defense?

“Since the times of the Cold War the United Nations Organization has been trying in vain to reach a consensus on the basic issue of definition. The organization has intensified its efforts recently, but has been unable to bridge the gap between those who associate "terrorism" with any violent act by non-state groups against civilians, state functionaries or infrastructure or military installations, and those who believe in the concept of the legitimate use of force when resistance against foreign occupation or against systematic oppression of ethnic and/or religious groups within a state is concerned.

“The dilemma facing the international community can best be illustrated by reference to the contradicting categorization of organizations and movements such as Palestine Liberation Organization (PLO) – which is a terrorist group for Israel and a liberation movement for Arabs and Muslims – the Kashmiri resistance groups – who are terrorists in the perception of India, liberation fighters in that of Pakistan – the earlier Contras in Nicaragua – freedom fighters for the United States, terrorists for the Socialist camp – or, most drastically, the Afghani Mujahedeen (later to become the Taliban movement): during the Cold War period they were a group of freedom fighters for the West, nurtured by the United States, and a terrorist gang for the Soviet Union. One could go on and on in enumerating examples of conflicting categorizations that cannot be reconciled in any way – because of opposing political interests that are at the roots of those perceptions.

“How, then, can those contradicting definitions and conflicting perceptions and evaluations of one and the same group and its actions be explained? In our analysis, the basic reason for these striking inconsistencies lies in the divergent interest of states. Depending on whether a state is in the position of an occupying power or in that of a rival, or adversary, of an occupying power in a given territory, the definition of terrorism will "fluctuate" accordingly. A state may eventually see itself as protector of the rights of a certain ethnic group outside its territory and will therefore speak of a "liberation struggle," not of "terrorism" when acts of violence by this group are concerned, and vice-versa.

“The United Nations Organization has been unable to reach a decision on the definition of terrorism exactly because of these conflicting interests of sovereign states that determine in each and every instance how a particular armed movement (i.e. a non-state actor) is labelled in regard to the terrorists-

freedom fighter dichotomy. A "policy of double standards" on this vital issue of international affairs has been the unavoidable consequence.

"This "definitional predicament" of an organization consisting of sovereign states – and not of peoples, in spite of the emphasis in the Preamble to the United Nations Charter! – has become even more serious in the present global power constellation: one superpower exercises the decisive role in the Security Council, former great powers of the Cold War era as well as medium powers are increasingly being marginalized; and the problem has become even more acute since the terrorist attacks of 11 September 2001 in the United States.¹⁴¹

"The absence of a law defining "acts of terrorism" may result in abuse and oppression on the part of the police or military. An illustration is when a group of persons are merely engaged in a drinking spree. Yet the military or the police may consider the act as an act of terrorism and immediately arrest them pursuant to G.O. No. 5. Obviously, this is abuse and oppression on their part. It must be remembered that an act can only be considered a crime if there is a law defining the same as such and imposing the corresponding penalty thereon.

"So far, the word "terrorism" appears only once in our criminal laws, i.e., in P.D. No. 1835 dated January 16, 1981 enacted by President Marcos during the Martial Law regime. This decree is entitled "Codifying The Various Laws on Anti-Subversion and Increasing The Penalties for Membership in Subversive Organizations." The word "terrorism" is mentioned in the following provision: "That one who conspires with any other person for the purpose of overthrowing the Government of the Philippines x x x by force, violence, **terrorism**, x x x shall be punished by *reclusion temporal* x x x."

"P.D. No. 1835 was repealed by E.O. No. 167 (which outlaws the Communist Party of the Philippines) enacted by President Corazon Aquino on May 5, 1985. These two (2) laws, however, do not define "acts of terrorism." Since there is no law defining "acts of terrorism," it is President Arroyo alone, under G.O. No. 5, who has the discretion to determine what acts constitute terrorism. Her judgment on this aspect is absolute, without restrictions. Consequently, there can be indiscriminate arrest without warrants, breaking into offices and residences, taking over the media enterprises, prohibition and dispersal of all assemblies and gatherings unfriendly to the administration. All these can be effected in the name of G.O. No. 5. These acts go far beyond the calling-out power of the President. Certainly, they violate the due process clause of the Constitution. Thus, this Court declares that the "acts of terrorism" portion of G.O. No. 5 is unconstitutional.

The enactment of the HSA of 2007 shortly after the promulgation of the foregoing decision could have settled the definition of "terrorism" with more certainty. But this is not the case. Three years after the enactment of HSA 2007, the Supreme Court still grapples with the intrinsically vague and impermissibly broad definition of the crime of "terrorism" under HSA 2007. Terms like "widespread and extraordinary fear and panic among the populace" and "coerce the government to give in to an unlawful demand" are described by the Supreme Court as "nebulous," leaving law enforcement agencies with no standard to measure the prohibited acts (*Southern Hemisphere Engagement Network, Inc., on behalf of the South –South Network (SSN) for Non-State Armed Group*

Engagement, et. al., vs. Anti-Terrorism Council, et. al., G.R. No. 178552, October 5, 2010, etc).

In *Lagman, et. al., vs. Medialdea, et. al., G.R. No. 231658, 04 July 2017*, the Supreme Court, when faced with the issue of the constitutionality of the act of President Rodrigo Duterte placing the entire Mindanao under martial law, expounds on the commonalities and differentiation between terrorism and rebellion, and holds that terrorism is larger in scope than rebellion; rebellion is only one of the various means by which terrorism can be committed. Despite its comprehensive scope, the purpose of terrorism is distinct and well-defined, which is to sow and create a condition of widespread fear among the populace to coerce the government to give in to an unlawful demand. The condition of widespread fear is traditionally achieved through bombing, kidnapping, mass killing, beheading among others. In contrast, the purposes of rebellion are political – to remove from the allegiance to the Philippine Government: (i) the territory of the Philippines or any part thereof; (ii) any body of land, naval, or armed forces; or (b) to deprive the Chief Executive or Congress, wholly or partially, of any of their powers and prerogatives.

Lagman vs. Medialdea (Ibid.), however, gives a more definitive distinction between terrorism and rebellion – **“In order to determine what crime is committed, whether it is terrorism or rebellion, one first has to look into the main objective of the malefactors. If it is political, such as for the purpose of severing the allegiance of Mindanao to the Philippine Government, to establish a *wilayat* therein, the crime is rebellion. If, on the other hand, the primary objective is to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand, the crime is terrorism.** The Supreme Court goes further to emphasize that terrorism does not negate or absorb rebellion – “There is nothing in Article 134 of the Revised Penal Code and R.A. 9372 (HSA 2007) which provides that rebellion and terrorism are mutually exclusive of each other or that they cannot co-exist together. RA 9372 (HSA 2007) does not expressly or impliedly repeal Article 134 of the Revised Penal Code. And while rebellion is one of the predicate crimes of terrorism, one cannot absorb the other as they have different elements.”

Incidentally, the foregoing decision of the Supreme Court in *Lagman vs. Medialdea* is adopted by Senator Panfilo M. Lacson, when the latter is asked to differentiate between rebellion and terrorism during an interpellation by Senator Franklin M. Drilon on Senate Bill No. 1083, the precursor of ATA 2020, of which Lacson is the primary sponsor (*Senate Journal, Session No. 49, 03 February 2020*).

Under the foregoing, this Court finds that the acts of the respondent organizations – 1) have been committed to achieve a political purpose; and, 2) have been primarily directed at State agents, and not against civilians. Not

having met the stringent requirements of HSA of 2007, the nine (9) acts of atrocities committed by the NPA can only qualify as incidents of “rebellion.”

IX. The Dangers of Red-Tagging

During the proceedings in this Petition, the Petitioner has sought to establish, through the testimonies of Joel Minoto Legaspi, Joy James Sanguino and Jeffrey Celiz that among the dual tactics that are employed by the CPP is the utilization of above-ground (legal) movements (NDMOS) which espouse unarmed urban revolutionary mass movements as “fronts” for underground (illegal) movements (UGMOs) which espouse armed struggle.

The undisputed link between, and the identity of, the above ground (legal) organizations (NDMOs), the underground (illegal) organizations (UGMOs), and ultimately, the CPP-NPA is best illustrated in how the NDMOs provide a fertile ground for potential members of the underground movements which in turn, are a recruitment ground for the CPP-NPA. The personal experiences of Legaspi, Sanguino and Celiz however, reveal a common trend – they are first recruited to the above ground movements or activist groups such as the League of Filipino Students (LFS) and, while members of the above ground movement, they are further recruited to join the underground movement Kabataang Makabayan (KM). Later, as KM members, they are recruited to join the CPP-NPA. According to Legaspi, one of the purposes of above ground organizations is to prepare their members for a more radical membership in the underground organizations.

Notably, however, Legaspi, Sanguino and Celiz have made it clear that as members of underground organizations who are also recruiting students to above ground student organizations, they have been careful not to mention to their potential recruits their affiliation with the KM, presumably to avoid putting them off. It is only when a member of an “above ground” organization has been radicalised enough that he or she is regarded as sufficiently “ripe” for recruitment to an underground organization. Moreover, only members of an underground organization are finally recruited to the CPP-NPA.

It can be deduced from these witnesses’ accounts that while a member of the CPP-NPA may be a member of both UGMO and NDMO, this is not necessarily true for all members of NDMOs who, more often than not, may have joined an organization which they think is an activist organization, with no affiliation to any underground organization, much less to the CPP-NPA. Based on the testimony of Legaspi, Sanguino and Celiz, not every member of an aboveground organization is recruited to the UGMOs. Legaspi specifically recounts that during his time, only 15% to 20% of LFS members are recruited to the KM. This is later increased to 30% to 60% when reforms are undertaken to do away with conservatism within the Regional Youth Bureau.

In summary:

1. A member of an organization which is identified to be an NDMO is not always a member of any of the UGMOs, much less, of the CPP-NPA;
2. Not all members of an organization identified to be an NDMO espouse the radical view of overthrowing the present government by armed struggle;

Implied in Legaspi's use of the term "recruitment" is the recruitee's exercise of free, informed choice. "Recruitment" carries with it the presumption that the entire recruitment process – that of the recruiter getting the recruitee's consent, presumably with the recruitee's full knowledge of the nature of the organization that he or she was being recruited into – has been undertaken. It also implies that not all those who are recruited have consented to join a UGMO or the CPP-NPA.

And here lies the danger of "red-tagging."

Red-tagging, defined as the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government or administration as members of CPP-NPA is a pernicious practice that poses a threat to the security of activists. Members of NDMOs espouse valid societal change, without necessarily giving thought to "armed struggle" or "violence" aimed at overthrowing the government, as a means to achieve the same. To automatically lump activists, mostly members of the above ground organizations as members of the CPP-NPA invariably constitute red-tagging.

In the 1964 case of *People vs. Amado V. Hernandez, et. al., and People vs. Bayano Espritu, et al., G.R. Nos. L-6025 and L-6026, respectively, 30 May 1964*, the Supreme Court distinguishes between "belief" in, and an active espousal of, the Communist ideology coupled with membership in the CPP on one end, and membership in the CPP coupled with the actual commission of violent acts in furtherance of the communist ideology, on the other end. In said case, the Supreme Court acquits Amado V. Hernandez, a known Communist and an active advocate of the principles of Communism who frequently lectures his hearers to follow the footsteps of Taruc and join the uprising of the labouring class against capitalism, against America, and the administration, by making this crucial distinction – "But beyond the open advocacy of the Communistic Theory, there appears no evidence that he (Hernandez) actually participated in the actual conspiracy to overthrow by force the constituted authority." The High Court further finds that the Congress of Labor Organizations (CLO), (which may be equivalent to an NDMO today), which is headed by Hernandez, is merely "a stepping stone in the preparation of labourers for the Communists' ultimate revolution. The CLO's function, which is comparable to the present-day NDMOs,

is the indoctrination and preparation of its members for the uprising that would come, thereby making it a preparatory organization prior to the revolution. In acquitting Hernandez, the Supreme Court states that **“the act of indoctrinating and preparing its members for the revolution is not the revolution itself.”**

“Red-tagging” further ascribes to the person who is red-tagged the actions of the organizations of which he is allegedly a member. While HSA 2007 does not contain any proviso penalizing recruitment to, or membership in, a judicially-proscribed terrorist organization, association or group, ATA 2020 does (See *Section 10, ATA 2020*). It therefore follows that judicial proscription of the CPP-NPA under ATA 2020 would have severe consequences on those who are wrongfully, or rightfully tagged as its members, although the last paragraph of Section 4 thereof, which defines terrorism, has expressly stated that “terrorism, as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person’s life or to create a serious threat to public safety.”

Practical realities do make it difficult to ascribe membership to the CPP-NPA. The CPP-NPA has no list or directory of members (at least no such document has been presented in evidence). Moreover, there is no formal process by which one becomes a member of, or by which a member leaves, the organization. Incidents of cutting-off ties with the CPP-NPA are not also documented. Thus, one who is known to be a member of the CPP-NPA may have already relinquished his or her membership without it being known to the military, for instance. Added to these is the fact that the CPP has splintered into different factions with each faction espousing a variation of the ideology or strategy that is espoused by the mainstream CPP. Thus, it may happen that one considers himself or herself a communist but does not necessarily espouse, much less commit, acts pursuant to, “armed struggle.”

Under these circumstances, putting the “communist label” on one who may not be a member or on one who, even if a member, may not have participated in the actual act of taking up arms against the government, poses a serious concern. The Supreme Court, in *People vs. Amado V. Hernandez, et al.*, and *People vs. Bayano Espritio, et al.*, (*Ibid*) may have made the following statement within the context of the crime of rebellion, but said statement, made more than fifty years ago, is no less true in present-day cases of red-tagging where mere membership in a NDMO or even a UGMO, or even a nominal membership in the CPP-NPA may be already taken by agents of the State as sufficient ground to make an arrest, *viz.*,

“In our jurisprudence, guilt is personal and when the imposition of punishment on a status or on conduct can only be justified by reference to the relationship of that status or conduct to other concededly criminal activity (here advocacy of violent overthrow), that relationship must be sufficiently substantiated to satisfy the pronouncement of personal guilt in

order to withstand attack under the Due Process Clause of the Fifth Amendment. **Membership, without more, in an organization engaged in illegal advocacy, it is now said, has not heretofore been recognized by this Court to be such a relationship.**

“What must be met, then, is the argument that membership even when accompanied by the elements of knowledge and specific intent, affords insufficient quantum of participation in the organization’s alleged criminal activity, that is, an insufficient significant form of aid and encouragement to permit the imposition of criminal sanctions on that basis. It must indeed be recognized that a person who merely becomes a member of an illegal organization, by that act alone, need not be doing nothing more than signifying his assent to its purposes and activities on one hand and providing, on the other, only the sort of moral encouragement which comes from the knowledge that others believe in what the organization is doing. It may indeed be argued that such assent and encouragement do fall short of the concrete, practical impetus given to a criminal enterprise which is lent for instance, by a commitment on the part of the conspirator to act in furtherance of that enterprise.”

Interestingly, the Supreme Court, *In the Matter of Petition for Habeas Corpus of Roberto Umil, et. al., G.R. No. 81567, 03 October 1991*, which has enunciated the doctrine of “continuing crimes” to justify the warrantless arrests of members of an outlawed organization, is also the same Court that exhorts caution against arrests made on mere suspicion – “This Resolution ends as it began, reiterating that mere suspicion of being a Communist Party member or a subversive is absolutely not a ground for the arrest without warrant of a suspect.”

At this point, the Court recalls how the Petition has initially named approximately 600 personalities, mostly known activists and members of various non-government organizations (NGOs) as being members of the CPP-NPA. These personalities have since then, disavowed the allegations against them. An “activist,” is defined by the Council of Europe as someone who actively campaigns for change, normally on political or social issues. Activism is what activists do; that is, it encompasses the methods they use in order to bring about the desired change. Activism is a political act, by which an informed and active citizenry expresses and works for change in an array of political issues that affect them. In essence, activism therefore is an important part of the democratic process – where individuals and communities exercise their right to shape government policy and ultimately, society.

The framers of ATA 2020, particularly Section 4 thereof have taken pains to expressly exclude, from the definition of “terrorism” – acts of advocacy, protest, dissent, stoppage of work, industrial or mass action and other similar exercises of civil and political rights which are not intended to cause death or serious physical harm, *viz.*,

Section 4. *Terrorism.* – x x x x x “Provided that terrorism, as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action and other similar exercises of civil and

political rights which are not intended to cause death or serious physical harm to a person, to endanger a person's life or to create a serious risk to public safety.”

Unfortunately, the phraseology employed in the foregoing proviso would have resulted to consequences which will be the opposite of its intended outcome. This has led the Supreme Court, in *Calleja vs. Executive Secretary, et. al.*, (G.R. Nos. 252578, 252579. et. al., 21 December 2021) to strike down the proviso as unconstitutional. The Supreme Court ratiocinates:

“Section 4 of ATA 2020 innately affects the exercise of freedom of speech and expression because if the proviso is rephrased in its logical inverse, it allows advocacies, protests, dissents, stoppages of work, industrial or mass actions and other similar exercises of civil and political rights to be punished as acts of terrorism if they are intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety. The burden is now placed on the accused to provide that his or her actions constitute a just exercise of his or her civil and political rights, contrary to the principle that it is the government that has the burden of proving the unconstitutionality of the utterance, speech, or expression. As a result, the “not intended clause” creates confusion because a person's exercise of his or her civil or political rights might be interpreted as acts of terrorism by law enforcement agents and on that basis, lead to a possible incarceration or tagging as a terrorist. The “not intended clause” of the proviso thereby creates a substantially chilling effect on the people's exercise of speech and expression, making it unconstitutional.”

In so ruling, the Supreme Court effectively reinforces with greater vigor individual rights of advocacy, protest, dissent, stoppage of work, industrial or mass action and other similar exercises of civil and political rights.

X. Conclusion

How then must the State react to dissension from its citizens?

Rebellion is rooted in a discontent of the existing order which is perceived to be unjust and inequitable to the majority, and favourable to the wealthy, ruling few. Rebels are usually compelled to resort to violence simply for lack of avenues to be heard, and in order to be in a position to significantly change the *status quo*. The CPP's ideology which calls for absolutes – no less than the annihilation of the State to give way to the People's Democratic Revolution which will ultimately lead to the People's Democratic Republic of the Philippines is indeed unflinching. However, the CPP can only gain adherents for as long as the government remains insensitive to, and incompetent in addressing, the social realities of poverty and material inequality which bring with them the oppression of the marginalized. The government can, while uncompromising in its fight against the Communism, regard the CPP's act of taking the cudgels of the marginalized – as an impetus to better address these sectors' concerns. If our

people should see that reforms could be initiated, and carried out from within, the CPP's call to arms to overthrow the government, will indubitably, be unheeded.

Efforts on the part of the present government to counter insurgency should include respect for the right to dissent, to due process and to the rule of law. Just as the respondent organizations are uncompromising in their ideals, so must the government be uncompromising in safeguarding the Constitution it is sworn to uphold. In his separate opinion in *People vs. Lava, (Ibid)*, Justice Fernando notes with dismay the belief in some circles that in the prosecution of the accused who are perceived to be "a danger to democratic institutions", there is no need to apply with rigor their constitutional rights. To Justice Fernando, **this is false thesis as it implies the weakness of a democracy to defend itself democratically. Under such view, a government could be spared the threat from internal subversion, but what is saved is no longer the government contemplated by the framers and the people who adopted the Constitution.**

Justice Fernando then reiterates the earlier view of Justice Bengzon in *Nava vs. Gatmaitan (99 Phil. 515, 535)* on how the government should uphold the constitutional rights of every citizen, dissident or not, *viz.*,

"x x x x And in my opinion one of the surest means to ease the uprising is a sincere demonstration of this Government's adherence to the principles of the Constitution, together with an impartial application thereof to all citizens, whether dissidents or not. Let the rebels have no reason to apprehend that their comrades now in under custody are being railroaded into Muntinlupa, without benefit of those fundamental privileges which the experience of the ages has deemed essential for the protection of all persons accused of crime before the tribunal of justice. Give them the assurance that the judiciary, ever mindful of its sacred mission will not, through faulty cogitation or misplaced devotion, uphold any doubtful claims of governmental power in diminution of individual rights, but will always cling to the principle uttered long ago by Chief Justice Marshall that when in doubt as to the construction of the Constitution, "the courts will favor personal liberty.

As to the view that an observance of the dissidents' constitutional rights will jeopardize the security of the State, the exhortation is that "the existence of danger is never a justification for courts to tamper with the fundamental rights expressly granted by the Constitution. These rights are immutable, inflexible, yielding to no pressure of convenience, expediency, or the so-called "judicial statesmanship." The legislature itself cannot infringe them, and no court conscious of its responsibilities and limitations would do so. If the Bill of Rights are incompatible with stable government and a menace to the Nation, let the Constitution be amended, or abolished. It is trite to say that, while the Constitution stands, the courts of justice as the repository of civil liberty are bound to protect and maintain undiluted individual rights."

The recognition of the State that the fight against terrorism does not only entail meeting force with force but rather necessitates a comprehensive

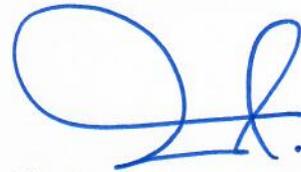
approach comprising of political, economic, diplomatic, military, and legal means duly taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities, is heartening. Indeed, measures that seek to include conflict management and post-conflict peace-building, addressing the roots of conflict by building state capacity and promoting equitable economic development will hopefully stamp out terrorism and eradicate its seeds (*see Declaration of Policy, R.A. 9372*).

Nothing is better attested by present realities than that terrorism does not flourish in a healthy, vibrant democracy.

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED.

SO ORDERED.

This 21st day of September 2022, in the City of Manila, Philippines.



Marlo A. Magdoza-Malagar
Presiding Judge