



The Comprehensive Agreement on
Respect for Human Rights &
International Humanitarian Law
(CARHRIHL)

Sulong CARHRIHL Module

OUR RIGHTS, OUR PEACE

Parts of the CARHRIHL

- Preamble
- Part 1: Declaration of Principles
- Part II: Bases, Scope and Applicability
- Part III: Respect for Human Rights
- Part IV: Respect for International Humanitarian Law
- Part V: Joint Monitoring Committee
- Part VI: Final Provisions

Preamble

The preamble states the intention of or the reasons the two parties agreed to enter into the CARHRIHL.

- They recognize the importance of HR and IHL:
 - (a) as a foundation of a just and lasting peace;
 - (b) taking into account the human rights situation and the historical experience of the Filipinos on human rights; and
 - (c) given the nature of the conflict as a prolonged armed conflict.

Preamble

- They see the need for: (a) effective mechanism and measures for upholding and promoting HR & IHL; and (b) assuming separate duties and responsibilities for upholding and promoting HR & IHL
- They are affirming: (a) the universal applicability of HR & IHL; (b) their commitment to these principles & their application; (c) the mutually acceptable principles of past agreements.

Part I: Declaration of Principles

- the agreed on principles in the Hague Declaration (national sovereignty, democracy, social justice, and no preconditions) which serve as the framework of the peace talks
- mutuality and reciprocity as well as assumption of separate duties and responsibilities in the conduct of the talks, and implementation of the CARHRIHL
- the need to realize individual and collective freedom and rights through a comprehensive accord and under conditions of national and social freedom and to expand and guarantee these, especially for the workers and peasants
- given the prolonged armed conflict, the faithful compliance of both parties to HR and IHL.

Part II: Bases, Scope & Applicability

The (general) aims of CARHRIHL are to:

- address the concrete condition of human rights and IHL violations, and
- find principled ways and means to render justice to victims.

(Article 1)

Part II: Bases, Scope & Applicability

The (specific) objectives are to:

- protect the rights of all Filipinos, especially the workers, peasants and other poor people
- protect the rights of the civilian population
- create effective mechanisms and measures for realizing, monitoring, verifying and ensuring compliance
- pave the way for a comprehensive agreement on the other agenda (social and economic rights, political and constitutional reform) that will ensure a just and lasting peace.

(Article 2)

Part II: Bases, Scope & Applicability

- The obligation of both parties to realize human rights giving “due consideration to the respective political principles and circumstance of the two parties” was affirmed (Article 3).
- Universal standards shall apply, and the agreement shall apply to all persons, without discrimination (Articles 4 and 5).

Part III: Respect for Human Rights

- Civil & Political Rights
- Social, Economic & Cultural Rights
- Special Collective Rights
- Accountability & Punishment
- Other Special Matters

Civil and Political Rights

- The right to life (Art. 2.4)
 - no to summary executions, disappearances...
 - no to incitement to violence against one's person
- The right to liberty (Art. 2.5)
 - no to warrantless and unjustified arrest
 - yes to privilege of writ of habeas corpus
- The right to be secure in their persons, houses, papers & effects (Art. 2.6)
 - no to unreasonable searches & seizures, illegal operations

Civil and Political Rights

- Freedom of thought and expression, of beliefs and practices. (Art. 2.11)
- The right to free speech, press, association, assembly and association. (Art. 2.12)
- The right to privacy of communication and correspondence. (Art. 2.13)
- The right to mobility within or outside the country. (Art. 2.14)

Civil and Political Rights

- Right to information on matters of public concerns & access to records and papers pertaining to acts of persons in authority (Art. 2.16)
- The right to universal suffrage (Art. 2.17)

Civil and Political Rights

- The right to seek justice for violations of human rights including compensation, restitutions and rehabilitation (Art. 2.3)
- The right to substantive and procedural due process (Art. 2.9)
- The right to equal protection of the law (Art. 2.10)

Civil and Political Rights

- The right not to be subjected to physical or mental torture, solitary confinement, rape, sexual abuse, cruel or degrading treatment, detention and punishment (Art. 2.7)
- The right not to be held in involuntary servitude or to perform forced or compulsory labor (Art. 2.8)
- The right not to be subjected to forced evacuation, economic blockades, indiscriminate bombings, gunfire and use of landmines (Art. 2.15)
[this is repeated in Part IV, IHL]

Economic, Social & Cultural Rights

- Right to own a property and means of production obtained through land reform and honest mean and to use such means for the common good (Art. 2. 18)
- The right to gainful employment, to work and equal pay, to form unions, to strike and to participate in the policy and decision-making processes affecting their rights and interests (Art. 2.19)

Economic, Social & Cultural Rights

- Free and universal elementary and secondary education, basic services and health care (Art. 2.20)
- Right to engage in scientific research, inventions, literary and artistic creation and other cultural pursuits
- To form marital unions, & found a family (Art. 2.22)

Collective/Special Rights

- Equal rights of *women* (Art. 2.23, 10)
- The rights of *children* and the *disabled* to protection, care and home; against all forms of abuse, exploitation and oppression (Art. 2.24, 10)
- Rights of the *minority communities* to autonomy and ancestral lands and natural resources; & equal representation in economic, political and social life and institutions (Art. 2.25, 10, 12)

Collective/Special Rights

- The GRP shall respect basic *workers'* rights guaranteed by the International Labor Convention on Freedom of Association & Protection of the Right to Organize & the standards of the International Labor Organization (Art. 11 &10)
- The GRP shall respect the basic rights of *peasants* to land tenure and land reform; the rights of *IPs* in public domains; the rights of the *fisherfolk* to fish in the waters of the Philippines (Art 12, Art. 10)

Collective/Special Rights

- Protection of lives and properties against incursions from mining, real estate, logging, tourism & other similar projects (Art. 9)
- The right to self determination of the Filipino nation (Art. 2.1)
- The inherent and inalienable right of the people to establish a just, democratic and peaceful society (Art. 2.2)

Other Special Concerns

- **Claims of Martial Law Victims**

The parties respect and support the rights of the victims of human rights violations during the Marcos regime based on several court rulings etc. In case of settlement, the GRP shall execute an instrument with the representatives of the victims. (Art. 5)

- **On Political Prisoners**

The GRP shall review all cases of all prisoners or detainees and shall immediately release those in jail contrary to the established Hernandez doctrine. (Art. 6)

Note: Most of the 30 prisoners (mostly women, minors & elderly) approved by GMA for release in April 2001 have been by end of 2006.

Other Special Concerns

- On Repressive Laws and Decrees

GRP shall repeal repressive law, decrees or other executive issuances (Art. 7)

GRP shall review its jurisprudence on warrantless arrests, checkpoints, saturation drives, warrantless searches and criminalization of political offenses (Art. 8)

Accountability and Punishment

- The parties encourage all victims of violations and abuses of human rights or their families to come forward with their complaints and evidence. (Art. 3)
- The persons who committed such abuses or violations shall be subjected to investigation, and evidence warrants, to prosecution and trial. The victims or their survivors shall be indemnified. (Art. 4)

HR Education and Promotion

- The parties shall promote and carry out campaigns of human rights education, land reform, higher production, health and sanitation, and others that are of social benefit to the people. (Art. 13)

Part IV: Respect for International Humanitarian Law

- Protection of Civilians & Civilian Objects
- Limits to Methods of Warfare
- Protected Persons (relief and medical personnel, religious personnel, women, children) and Symbols (Red Cross)
- Rights of Internally Displaced Persons
- Others

Protection of Civilians & Limits to Methods of Warfare

- Civilians should be distinguished from combatants, and their life and property protected.
- Human rights violations especially of the right to life, against physical or mental torture, ill treatment, revenge, and hostage taking are not allowed.
- Forced evacuation, internal displacement, zoning, arson, bulldozing are not allowed.
- Indiscriminate bombings, shooting, use of landmines are prohibited.
- Civilians must be protected against the danger due to the presence of military camps.

PART IV (IHL): Art. 3.7, 4.1, 4.4, 12
Also in PART III (HR): Art. 4, Art. 15

No Discrimination of Persons/ Special Protection

- Protection should be given to all regardless of race, color, belief, sex, class or other criteria.
- The wounded and the sick (their collection and care), and vulnerable sectors like women and children are to be given special protection.

PART IV (IHL): Art. 41. 4.7,4.2,4.9,10

Rights of the Internally Displaced Persons (IDPs)

- Forced evacuation, zoning/concentration of residents unless demanded by safety concerns, destruction of livelihood are not allowed.
- Government should review policies that cause internal displacement and all its consequences like loss of livelihood.
- IDPs have the right to return to their places of origin and livelihood, to ask for government assistance to be able to recover losses and return to normal.

Protection of Children in Situations of Armed Conflict

Children should not be involved in the armed conflict.

PART IV (IHL): Art. 10; Part III(HR), Art. 24

The rights of children to protection, care and home; against all forms of abuse, exploitation and oppression

PART III (HR): Art. 2.24

Rights of Detained Persons/ Obligation of First Parties

- The parties must provide information on the identity, reason for detention, & condition of the detained person.

PART IV (IHL): Art. 3.4, 3.5; PART III (HR): Art, 24

- Parties are responsible of the care and safety of detained persons in their custody. PART IV (IHL): Art 4.6

- Forceful extraction of information other than the person's identity is not allowed.

PART IV (IHL): Art. 3.3

Relief and Medical Personnel

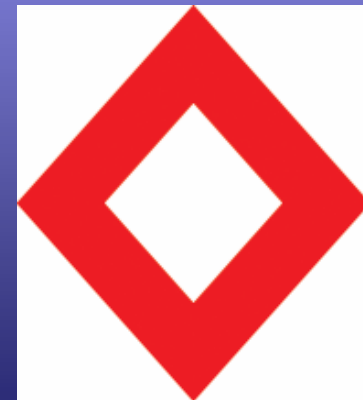
- The parties must provide protection, and safe passages to relief/medical personnel and their equipment

PART IV (IHL): Art 4.3,4.6, 4.9

ICRC Symbols

- The symbols of the ICRC must not be misused.

PART IV (IHL): Art. 4.3



Respect of peaceful intention/ Protection of the Wounded, Sick & Shipwrecked

- Those who have surrendered should not be killed; combatants become non-combatant/out-of-combat once they show intent to surrender and are given protection as “prisoners of war”
- Combatants who are no longer fighting because they are sick, have been wounded, shipwrecked, fallen from aircraft, or distressed are considered out-of-combat and enjoy protection as civilians

Other Protected Persons

- Health, religious and other humanitarian organizations & personnel enjoy protected status

Note: Journalists (because they are not necessarily neutral persons) do not enjoy such full protection under IHL but the rights of press and of journalists as persons should also be respected.

Protected Objects & Places

- Schools, religious establishments, projects & programs for the community welfare, cultural sites and historical monuments may not be the object of attack.

PART IV (IHL): Art. 4.3, 4.8

Respect for the Dead

- The remains of the dead due to the armed conflict or in detention, should be respected and given decent burial.
- Their return to their family should not be blocked or prevented.
- Conflict parties should exert all efforts to recover the dead.

PART IV (IHL): Art 3.4, 4.9

Paramilitary groups and militarization

- Review policies and practices on the creation of the CAFGUs, CVOs, and similar groups
- Prohibit support/consent for paramilitary groups like armed religious cults, private armies of businessmen and land owners, and private security firms used against workers and farmers
- Prohibit participation of civilians and civilian officials in military operations
- Reduce military expenditure and give priority to social, economic, development and cultural programs .

IHL Education

- Both parties should launch education campaigns on IHL especially among them and in conflict-affected areas both parties should launch education campaigns on IHL especially among them and in conflict-affected areas.

PART IV (IHL): Art.14; Pre-amble

Accountability and Punishment

- Those who do not observe due process with regards to persons in their custody should be accountable and punished
- Civilians have the right to demand accountability of the armed parties who do not observe IHL
- Those accused of IHL violations should undergo investigation and prosecuted based on evidence
- Victims should be given justice, protection, relief and compensation

Part V: The Joint Monitoring Committee

- *Composition*

- 3 members from GRP
- 3 members from NDF
- 2 observers from civil society nominated by GRP
- 2 observers from civil society nominated by the NDF

The JMC shall have co-chairpersons who will serve as chief representatives of the parties. (Art. 2)

- *Secretariat*

The JMC shall create a joint secretariat that shall provide staff support (Art. 5)

* All of the above are covered by JASIG (Art. 4).

The Mandate of the JMC

The JMC is the principal mechanism to monitor the implementation of the CARHRIHL.

- It shall receive complaints of violations or non-implementation.
- Decide by consensus the complaint to be referred by the JMC to the Party concerned.
- Receives the report of the Party, deliberates and by consensus submits recommendations to the two parties through their respective panels.

Processing of Complaints

- Co-chairs receive complaints
- JMC agrees to forward the complaint to the concerned Party
- The Party submits its response to the JMC
- The JMC by consensus submits its recommendations to the GRP & NDF panels

JMC

GRP-MC
& Secretariat

NDF-MC
& Secretariat

Operations of the JMC

- The JMC shall be organized upon the effectivity of this agreement and shall continue to exist until dissolved by each party through sending a written notice of dissolution and shall take effect thirty days after official receipt (CARHRIHL Part V, Art. 6)
- The JMC shall hold regular meetings at least once every three months or special meetings as needed in the Philippines or elsewhere as agreed upon.
(Oslo Joint Statement, Annex B, Part 4.5)
- The Chairpersons shall adopt guidelines on release of information to the public or to third parties.
(Oslo Joint Statement, Annex B, Part 4.7)

Status of the JMC

- The JMC held its first organizational meeting on 1 April. Although not dissolved, it has not been convened since then. The GRP-MC and NDF-MC continue to do their work separately.
- The Secretariat was formally convened on 15 April, and its office opened on 4 June.
- The JASIG was suspended on October 2005.
- In November 2005, warrants of arrest against Bayan Muna leaders, negotiators & personnel covered by JASIG, and others were served at the NDF-MC Secretariat office.

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Challenges to Civil Society



- Make the JMC functional and effective.
- Complement the weaknesses in the implementation and monitoring mechanisms in the CARHRIHL through other mechanisms and processes.
- Extract accountability and sanctions through other means.
- Broaden awareness of CARHRIHL in order to enhance its potential to prevent HR& IHL violations, and to serve as an instrument of justice and peace.