

Commentary

# Philippines: On the GRP-NDFP Interim Joint Ceasefire Agreement

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## Part 1

Allow me this Holy Week *penitencia* of commenting on the “Agreement on an Interim Joint Ceasefire” (AIJC) between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP) signed on 5 April 2017 in Noordwijk aan Zee, The Netherlands, in relation also to the “Joint Statement on the Successful Fourth Round of Formal Talks...” signed on 6 April 2017. Well, that Fourth Round has been billed and hailed as “successful” with the AIJC as among several achievements. But the AIJC for one, if not also other developments in or aspects of the Fourth Round and its Joint Statement the seriousness of a closer reading.

The April 7 newspaper headline “**No ceasefire yet** - Dureza,” referring to GRP presidential peace process adviser Jesus G. Dureza, is already a cautionary note. In fact, NDFP Panel Chairperson Fidel V. Agcaoili said in his April 5 Press Statement “**This is not yet a ceasefire agreement.**” Indeed, the fine print of the AIJC indicates that the interim ceasefire has yet to be “put in effect” and that this shall be “upon approval and signing of the guidelines and ground rules for the implementation of the agreement” to be “finalized” by the respective Ceasefire Committees of the two Negotiating Panels. The two Committees are directed “to meet even in between formal talks,” with the Fifth Round already scheduled for May 26 to June 2, 2007 in the same Dutch venue. But there is no clear time frame “to put into effect the ceasefire,” it depends “upon approval and signing of the guidelines and ground rules.”

At the same time, NDFP Media Office Press Statements on April 5 and NDFP Chief Political Consultant Prof. Jose Maria Sison’s Closing Remarks on April 6, as well as the above-said Joint Statement itself, articulate or reflect the NDFP view that securing the approval of the Comprehensive Agreement on Social and Economic Reforms (CASER), the second substantive agreement (out of four envisioned), “should be a step ahead of the joint ceasefire agreement, unless these agreements can be signed at the same time by the Panels and then by the principals.” This assertion is however *not born out by the AIJC itself*, nor by the section “On Ceasefire” in the Joint Statement. It is like one team moving the goal posts in the middle of a football game.

The closest in the AIJC co-relating it to the CASER is the third listed objective of the AIJC which is “To provide an enabling environment for eventual and early signing of the CASER.” In fact, the

connotation of this objective is that a ceasefire should already be put into effect *ahead of the CASER* precisely “to provide an enabling environment” for achieving the CASER. It is absurd to posit that merely negotiating the ceasefire guidelines and ground rules would suffice “to provide an enabling environment.” On the contrary, the absence of a ceasefire — even of the unilateral interim type like from August 2016 to January 2017 – *defeats the said objective* and is susceptible to *an instead disabling environment* of continuing, if not also intensified, armed hostilities – *as has been happening* since the February reciprocal terminations of the said unilateral interim ceasefires.

The two sides say that their current non-reinstatement of their respective unilateral ceasefires, despite their agreement already in the Utrecht Joint Statement of 11 March 2017 to reinstate them before the scheduled Fourth Round, is in line with the AIJC second objective of “forging a more stable and comprehensive Joint Ceasefire Agreement,” in short, a bilateral ceasefire. That is well and good, *but what happens in the meantime* to address continuing armed hostilities and their likely disabling impact on the peace talks *based on long and bitter experience*? Statements from the NDFP side say that the “CASER is expected to be finished within the year.”

But lest expectations be unduly raised, the experience, nay history, would indicate the likelihood of longer, indeed prolonged or protracted, negotiations on complex and contentious substantive agenda items which are much more than catch-words or headings like Agrarian Reform and Rural Development (ARRD) and National Industrialization and Economic Development (NIED). It took most of the six years of the Ramos Administration (1992-98) to achieve the first and so far only substantive agreement in 25 years, the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) – a subject where there is much more commonality between the parties than there is on socio-economic reforms and politico-constitutional reforms.

What happens if the negotiations on the CASER are not finished within the year? Does this mean that a ceasefire cannot yet be put into effect even if the two Ceasefire Committees have finalized the guidelines and ground rules for approval and signing? Will that be signed only after the signing of the CASER as the NDFP asserts? What if, “for any reason we cannot foresee now,” no CASER is signed? *Abangan*.

## Part 2

By the terms of the GRP-NDFP Agreement on an Interim Joint Ceasefire (AIJC), it should be “put into effect upon approval and signing of the guidelines and ground rules” to be “finalized” by the respective Ceasefire Committees of the two Negotiating Panels. There is nothing in its terms about awaiting the signing of the Comprehensive Agreement on Social and Economic Reforms (CASER) as is being asserted by the NDFP. If the “eventual and early signing of the CASER” is an objective as well as expectation, then why hold in abeyance the putting into effect of the ceasefire which would even “provide an enabling environment” for an earlier successful completion of that CASER negotiation? If that is the expectation, why allow the expected loss of precious lives from continuing armed hostilities in the meantime? Would those irretrievably lost lives not be in the nature of “unnecessary sacrifices” which “we should do our best to avoid”?

This is **unfortunately one simple but important objective which the AIJC missed stating**, even if it naturally follows from the nature of a ceasefire as a temporary cessation of armed hostilities: **to avoid the loss of life**, aside of course from other losses of an economic nature. This **speaks to how much or how little we value fellow human life, which involves the most basic human right to life**. NDFP Chief Political Consultant Prof. Jose Maria Sison in his Closing Remarks at the Fourth Round of Formal Talks said: “The ceasefire agreement is necessary and of high

importance. But far more important and decisive in realizing a just and lasting peace is the adoption and implementation of basic social, economic and political reforms that are needed and demanded by the Filipino people.” NDFP Panel Chairperson Fidel V. Agcaoili for his part said that “the issue of ceasefire should not be pursued as an end in itself and that ceasefires, whether unilateral or bilateral or joint, are just a means to an end. Their main purpose is to create conditions conducive to reaching agreements on basic reforms that are satisfactory to both sides.”

While there is truth, especially at the conceptual level, in those statements, it should not be as if ceasefires and substantive reforms are being counter-posed to each other, instead of being seen and treated as integral parts of one process or continuum. There is a palpable downgrading of and hesitance for ceasefires on the part of NDFP partisans when they make such above-quoted remarks or other ones such as “The aim of the talks is not just to end the fighting but also to address the roots of the armed conflict... a premature ceasefire... won’t help” and “it is not decisive in the continuation of the peace talks... it may provide a conducive environment for peace talks, but it can be used by the militarist elements in government to sabotage the peace process.”

Indeed, peace is more than the absence of war, but it definitely includes the absence of war aside from the presence or institutionalization of a sufficient measure of social justice. In terms of process, as distinguished from outcome, peace is preferably achieved by peaceful means such as political negotiations. The means are just as important as the ends because the means often shape the contours or content of the ends. As for “the serious concerns that have been raised in relation to the previous six-month unilateral ceasefires,” **the AIJC should have at least provided in all seriousness for a good though relatively quick review of the previous unilateral interim ceasefires**, ideally with the assistance of independent experts and civil society peace advocates. The sudden reciprocal terminations of the latter despite “the Successful Third Round of Formal Talks” in Rome last January were to us what were premature, not the ceasefires. From our distance, as well as the observation of many others, those reciprocal unilateral interim ceasefires appear to have been basically holding. At least between the Armed Forces of the Philippines (AFP) and the New People’s Army (NPA), there were no notable armed hostilities and consequent casualties during that six-month ceasefire.

That the unilateral interim ceasefires were not unduly problematic for the peace process is perhaps further shown by the agreement by panel representatives to reinstate them before the scheduled fourth round of talks in April 2017 per the Utrecht Joint Statement of 11 March 2017. To the credit of the NDFP, they announced that they were ready to declare such a ceasefire not later than March 31. But when the GRP side did not follow suit in what NDFP Panel Chairperson Agcaoili described as “constituting an unexpected departure from the March 11 backchannel agreement” in a March 31 press statement, the NDFP seemed only too “willing to be flexible regarding interim ceasefire.” There was no NDFP resistance to this unexpected departure from a most recent agreement, unlike when it came to other unexpected departures in the past like President Duterte’s scrapping of the peace talks last February.

Again to the NDFP’s credit, Agcaoili then proposed “that simultaneous and reciprocal declarations of unilateral ceasefire can be agreed upon and bound by the Joint Statement at the end of the fourth round of formal talks.” But no ceasefire declarations ensued therefrom. In the absence thereof and pending the putting into effect of the AIJC, **the parties should have at least incorporated this missing clause into the AIJC**, adapted from the 1969 Vienna Convention on the Law of Treaties: **“The parties are obliged to refrain from acts which would defeat the object and purpose of this interim joint ceasefire agreement prior to its being put into effect.”**

Naga City, 14 April 2017, Good Friday

### Part 3

In this final part of our Holy Week commentary on the GRP-NDFP Agreement on an Interim Joint Ceasefire (AIJC), it is interesting to note how this relates to some specific concerns as well as broader objectives of both parties. In the first part commentary, we pointed out that there is actually no ceasefire yet until its guidelines and ground rules are approved and signed presumably by the two Negotiating Panels – but which NDFP Chief Political Consultant Prof. Jose Maria Sison says also “by the principals” and, more significantly, only “immediately after the signing of the Comprehensive Agreement on Social and Economic Reforms (CASER).” The latter time frame is *not* provided for by the AIJC, but *if the NDFP had its way with that time frame*, then at least for the CASER, *the negotiations would partake of their preferred familiar mode of “talking while fighting.”* This mode was actually in effect by the time of the resumption Fourth Round of Formal Talks. The NDFP says that the “CASER is expected to be finished within the year.” But experience would indicate the likelihood of longer, indeed prolonged or protracted, negotiations on its complex and contentious substantive agenda items.

*The NDFP has thus deftly dealt with one of the four so-called “pre-conditions” of President Duterte for the resumption of the peace talks, namely a bilateral ceasefire.* The fourth round formal talks proceeded even without one. In lieu of an actual bilateral ceasefire, there was only an agreement to negotiate still the guidelines and ground rules of an interim joint ceasefire. We humbly suggest that this be “put into effect” ASAP, without waiting for the signing of the CASER, but already “provide an enabling environment” for its “early signing.” IF, “for any reason we cannot foresee now,” no CASER signing is forthcoming despite the best efforts, THEN that may be justifiable ground and a reasonable time to terminate the interim joint ceasefire.

Two other “pre-conditions” of President Duterte, which were supposed to have been covered by a bilateral ceasefire agreement, namely an end to the collection of revolutionary tax and for the NDFP to quit claiming territories, were also deftly side-stepped by the NDFP by shunting those two items away from the ceasefire agenda and onto the politico-constitutional reforms agenda. As dealt with in the AIJC: “Matters regarding a single governmental authority and taxation shall be discussed and resolved in forging the Comprehensive Agreement on Political and Constitutional Reforms (CAPCR) *within the framework of the proposed Federal Republic of the Philippines.*”

We digress or pause a bit here to take in the significance of that last quoted point of agreement between the parties. The NDFP has thereby, although only a ceasefire-related agreement, accepted the overarching framework of President Duterte’s sponsored Federal Republic of the Philippines, to the point that the CAPCR is to come within this framework. Sison said that “Such matters can be finally resolved by the GRP and NDFP *co-founding* the Federal Republic of the Philippines. Thus, the NDFP will not be capitulating to a pre-existing government but can assume responsibilities in the new government.” The obvious NDFP positioning here is to be a presumptive co-equal part of a new coalition government, the federal form being just incidental to the power-sharing. Sison had expressed opposition to the above-said two “pre-conditions” in that they “amount to demanding the capitulation, pacification and self-destruction of the people’s (i.e. the NDFP’s) government and all revolutionary forces.” Ceasefires also tend to be semi-automatically treated by the NDFP in those terms, thus its conceptual hesitance towards ceasefires, even though there is other contrary revolutionary experience.

What remains of President Duterte’s four “pre-conditions” for the resumption of the peace talks is only the release of all soldiers and policemen held by the New People’s Army (NPA). It appears that this is the only “pre-condition” that will be actually met by the NDFP in the immediate period or coming days or weeks at most. It is the easiest to meet among the four “pre-conditions” but, even

then, the absence of a ceasefire has caused some delays in its safe and secure implementation. The problem is that the continuing absence of a ceasefire, and instead the intensification of armed hostilities, will likely result in more soldiers, policemen and rebels captured, killed or wounded in the conflict-affected areas in a vicious cycle that creates its own negative dynamic and disabling environment for the peace talks. This would defeat the AIJC first objective “to generate goodwill and trust in the GRP-NDFP peace negotiations.”

Military commanders have said that military operations will continue against the NPA despite the signing of an agreement to forge a joint interim ceasefire, unless ordered to stop by President Duterte. The Communist Party of the Philippines (CPP) for its part, on the occasion of the 48<sup>th</sup> anniversary of the NPA last March 29, and on the eve of the Fourth Round of Formal Talks, issued a deliberately delayed Communique on the CPP Second Congress held several months earlier in the fourth quarter of 2016. It reaffirmed, among others, in an elaborated preamble of no less than its Constitution, “its strategy and tactics for advancing protracted people’s war and waging armed struggle as principal form of struggle.” Is this really the *Viacrusis*, as it were, that addresses the roots of the armed conflict, or is it the peace negotiations, or both? This has to be co-related with the current course of the “talking while fighting” mode that appears to have deftly reasserted itself in the GRP-NDFP front of war and peace – regarding which we cannot yet say *Consummatum Est*.

**Soliman M. Santos, Jr.**

Naga City, 15 April 2017, Holy Saturday

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## **P.S.**

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