

Political Violence, Legitimacy and Just War Theory

Reyvi Mariñas

INTRODUCTION

Political violence is prevalent in the world today. Both state and non-state actors have resorted to violence as means to achieve ones political end. The use of violence in politics has raised some important moral and ethical considerations on the way in which the notion of ‘legitimacy’ within the just war framework has been contested. Indeed, there are debates whether resorting to violence and terrorism of such entities can become a ‘legitimate authority’ of their people they claim to represent and whether its use is justifiable on a particular moral ground. The concept of political violence and its relationship to the notion of legitimacy are both contentious issues because both concepts impinge on the question of who has the ‘legitimate authority’ and how ‘legitimacy’ would be ascribed to such political entities.

This essay attempts to address the relationship between the use of political violence and its impact on the notion of political legitimacy. In particular, I will argue that political legitimacy can be ascribed to non-state actors if they meet the conditions imposed by just war theory. The first part of the essay deals with Virginia Held’s main thesis in ‘Legitimate Authority in Non-state Groups Using Violence’ that non-state actors resorting to political violence can be legitimate representative of their people on the grounds of popular support and international recognition. The second part will contest Held’s rights-based approach on the notion of ‘legitimacy’ and political violence, which fails to consider the dichotomy between ‘acts of war’ and ‘acts of crimes’. Here, I will use Thompson’s approach in her essay, ‘Terrorism and

the Right to Wage War' and will argue that political violence used by such actors should be judged by ethical standards of just war theory as opposed to acts of crimes committed by other extreme 'terrorists groups'. Finally, I will assess these standards and apply them in the context of the 'war on terror' and armed conflict in the Philippines and will conclude that Thompson's approach helps us to better understand the relationship between political violence and legitimacy, and particularly, whether or not such groups have 'legitimate authority' in doing so.

HELD ON LEGITIMATE AUTHORITY AND POLITICAL VIOLENCE OF NON-STATE ACTORS

Virginia Held's essay on 'Legitimate Authority in Non-state Groups Using Violence' deals with the justification of non-state actors using terrorist violence and whether such actors can become legitimate representatives of their people. The central question here is under what conditions can the so-called 'terrorist groups' justified in wielding political legitimacy? According to Held, there are two main justifications which I will now discuss in turn.

Popular support

Popular support for a group resorting to violence and terrorism seems to be an important basis for political legitimacy. Held started her discussion with a reference to Allen Buchanan's thesis which implies that an entity has political legitimacy if and only if it is morally justified in wielding political power. According to him, it is open to possibilities that such entities ought to wield political power can be legitimate even if groups do not achieve an ideal democratic governance or a 'genuine political

community'.¹ His interpretation appears as if the notion of legitimacy is based on the continuance of the consent and support of those who abide by, live according to, and interpret rules and institutions. It follows that once the group is recognised as a legitimate representative, it can engage in constitutional convention, elections and peace negotiations.

According to Held, there may be difficulties in assessing popular support especially for groups who are engaging in armed struggle for a political end.² There would be some opposition to its use of violence. Miller, in his response to Held, observed that terrorist activities would tend to undermine the moral entitlement possessed in light of good relationships to the people. He questioned the notion of 'popular support' when it leads people to acquiesce in colonial domination.³ The use of violence may provoke retaliation on the other side, such as that of Palestinian militant attacks that resulted in Israeli destruction of their homes would seem to undermine the idea of popular support. Miller further argued: "A friend of a people may hope that terrorist group that legitimately represents it now in virtue of sufficient power in its territory will soon be replaced on account of the discontent of its people".⁴ Miller is sceptical on the effectiveness of achieving genuine support for such groups that resort to terrorism in seeking the right to end struggle for national liberation and self determination. For him, it seems contradictory and counter-productive that such groups continue to do so.

¹ Allen Buchanan, 'Political Legitimacy and Democracy', *Ethics* 112 (2002), p 691.

² Virginia Held, 'Legitimate Authority in Non-state groups Using Violence', *Journal of Social Philosophy*, 36:2 (2005), p 185.

³ Richard Miller, 'Terrorism and Legitimacy; A Response to Virginia Held', *Journal of Social Philosophy*, 36:2 (2005), p 199.

⁴ *Ibid*, p 199.

Held also spoke of a notion of 'legitimate authority' in using terrorist violence and invokes a justification of that violence that satisfies traditional criteria for just war theory. She agreed with Valls' argument that "some non-state groups may have the same rights as states to commit violence and that they are just capable of committing that violence within the constraints imposed by just war theory".⁵ Within the just war tradition, the principle of 'legitimate authority' is an important condition where it is aimed at keeping the resort of violence in war under the control of such 'authorities'. Held argued that if a legitimate government can engage in various acts that are unjustifiable and yet retain its legitimacy, so could a non-state entity.⁶ Miller did agree with Held on this basis; however, his concurrence did not mention whether it is the state or non-state actors who could maintain political legitimacy even though neither of these entities lacks popular support. Nevertheless, he warned that inappropriate exports of criteria of legitimacy could blur some important distinctions between internal and external recognition and "conflation of legitimacies would obscure real damage that resort to terrorism can do to democratic values".⁷ He seems to agree entirely with Held's justification on the external (international) recognition ground.

International recognition

Held also argued that international recognition is another ground in which claims to legitimacy by non-state actors using violence can be justified. Her justification seems to be based on rights-discourse and 'peoples' right to self-determination. The concept of right to self-determination is a well-established international norm and principle

⁵ Andrew Valls, 'Can Terrorism be Justified?' in Valls, A (ed) *Ethics in International Affairs: Theories and Cases* (Rowman & Littlefield, 2000), p 66.

⁶ Held, loc cit.

⁷ Miller, op cit, p 200.

which means that “a people or government has the authority to exercise complete control over what goes on inside their jurisdiction, and no outside agent has the right to make claims upon or interfere with what the self-determining agent does”.⁸ By invoking this right, liberation movement, for instance, can justifiably use force and violence to free themselves from serious human rights violations. She cited the Organisation of African Unity (OAU) as an internationally recognised organisation that has been given a mandate to decide which persons or groups should represent the non-self-governing territories in Africa, especially after the end of colonial domination. The African National Congress (ANC) in South Africa led by Nelson Mandela is a good example of an internationally recognised group that carries out political violence for national freedom and the right to self-determination.

It is important to emphasise here the ‘control of the loyalty’ of the population rather than the ‘control of the land’ and groups that are recognised have a claim to represent the whole ‘people’ seeking for the right to self-determination. Held observed that this requirement is difficult to achieve and highly controversial because there are no useful guidelines as to what counts as ‘people’. Nevertheless, she argued that it would sometimes be possible to characterise an existing group that seeks liberation from domination and oppression.⁹ Identification on the grounds of race, for instance, non-whites struggle in Africa against white dominations, is one of the best examples of this.

⁸ Iris Marion Young, ‘Two Concepts of Self-Determination’ in Austin Sarat and Thomas R. Kearns (eds) *Human Rights: Concepts, Contests, Contingencies* (University of Michigan Press: Michigan, 2001), p 31.

⁹ Held, p 188.

Held's argument based on popular support and international recognition seems plausible. However, her justification based on just war theory fell short of a very important dichotomy – that is the distinction between acts of war and acts of criminal violence. So Held's piece did not address fully the justification she raised about legitimacy and political violence, although she framed the issues in an interesting way. One question she never raised though is to distinguish mere criminal (terrorists) acts to acts of war. Nothing in her discussion gives us a way of drawing a distinction between, for instance, terrorism by Al-Qaeda and terrorism by African National Congress. What is the difference between a terrorist and a freedom fighter? Are such actors criminals or combatants?

THOMPSON ON LEGITIMATE AUTHORITY AND THE RIGHT TO WAGE WAR

Janna Thompson's piece on 'Terrorism and the Right to Wage War' deals with the way in which the legitimate authority requirement in just war theory has been set-up to define acts of war as opposed to acts of criminal violence. According to Thompson, it is important to distinguish terrorist violence as an act of crime from an act of war.¹⁰ Making a clear distinction between the two acts has a profound impact on the way we think about political violence (eg terrorism) and how we morally judge these actions. Thompson maintained the difference between the two acts and discussed them in the context of just war theory and how legitimate authority can be ascribed to such groups.

¹⁰ Janna Thompson, 'Terrorism and the Right to Wage War' in Tody Coady and Michael O'Keefe (eds) *Terrorism and Justice: Moral Argument in a Threatened World* (Melbourne University Press: Melbourne, 2002), p 88.

Acts of 'crime' versus acts of 'war': why should it matter?

One of the reasons why acts of crime should be distinguished from acts of war is the difference between what is permissible in times of peace and what can be condoned in times of war.¹¹ In times of war, generally, an enemy combatant can be shot without warning, unless the combatant is incapacitated, in custody, or trying to surrender, regardless of imminent threat. If the combatant is captured, he or she can be held in custody until the end of the armed conflict, without any trial. The combatant becomes a prisoner of war (POW) which can be accorded with special immunity from punishments once he or she no longer poses a danger. However, being a POW does not necessarily prevent a person from facing a criminal trial from the crimes that he/she committed during war times. Still, being classified as POWs come under international conventions and subject to international scrutiny from time to time.

On the other hand, in peacetime, government are bound by strict rules of law enforcement by the state. Police can use lethal force only if necessary to meet an imminent threat of death or serious bodily harm. Once a suspect is detained, he or she must be charged and tried. The US government, for example, has used this rhetoric precisely to give itself extrajudicial powers enjoyed by a wartime government to detain, torture, or even kill suspected Al-Qaeda members without trial.¹²

Another important reason why the distinction should be maintained, according to Thompson, is the bearing it has on how we morally judge these actions.¹³ Just war theory permits attacks on combatants in war and, to some extent, to state officials

¹¹ Kenneth Roth, 'The Law of War in the War on Terror', *Foreign Affairs* (January/February 2004).

¹² Ibid.

¹³ Thompson, p 89.

(police officers and government officials). Following Coady's view on non-immunity of state officials,¹⁴ Thompson argues that if a combatant kills an official as an 'act of war', then either of this is not an act of terror at all, or an example of a terrorist act capable of meeting the *jus in bello* (justice in war) requirement that civilians not be attacked (depending on what definition of 'terrorism' we accept).¹⁵ On the other hand, if these acts against non-combatants or property that are regarded as 'acts of crime', then these actions can be punishable by the law of the state and are unjustifiable according to the just war theory requirement of non-combatant immunity. Acts of combatants and non-combatants who break the law are two fundamental moral distinctions in the discussion of terrorism and just war theory because for a state of war to exist, belligerent combatants (or 'terrorists' in the current discourse) should be able to claim 'legitimate authority' or the right to wage war.

Three conditions of legitimate authority under just war theory

Central to Thompson's analysis is the idea that what counts as 'legitimate authority' should be distinguished from groups with belligerent status and the right to go to war as opposed to groups that use mere criminal violence. For Thompson, this is very important as it provides a basis for distinguishing acts of war from terrorism and so helps one determine what the appropriate response is. An act of bombing by a particular group, for instance, may in itself have looked like an act of war: it was directed at a political target, involved mass amounts of killing, and so on. Yet, it would be disputable whether a group has a 'legitimate authority' to act on behalf of the 'people' they purport to represent. The requirement of 'legitimate authority' tells us how to classify groups, so that we know how to respond to their actions. In so

¹⁴ See C. A. J Coady, 'The Morality of Terrorism', *Philosophy* 60 (1985), p 62.

¹⁵ Thompson, op cit.

distinguishing these groups that have legitimate authority and the right to war, from groups that lack legitimate authority, the legitimate authority requirement sets up the playing field, as it were, and determines from the very beginning when it is that we have a war. Thus, the requirement of legitimate authority is essential to helping us make this distinction.

Thompson identified that there are three basic conditions which a belligerent (as distinct from a mere ‘terrorist’) must reasonably satisfy in the context of just war theory. First, there must be “an organisation in control of the violence of its members”.¹⁶ Here, it appears as if Thompson is trying to bring-out the *internal* aspect of a group accorded with legitimate authority. The group must be able and willing to enforce obedience to its rules or conduct and is able to negotiate peace and to keep it. She distinguished this condition from those violent acts committed by such groups (terrorists) that do not have control to enforce and abide by their own rules of engagement. She considered the suicide bombings of Palestinians as an example of this. In other words, these groups are lawless, not only because they violate what most people regard as human rights, but also because these groups are unable to bring peace process on the negotiating table.

The second condition that Thompson recognised is that “belligerent must be willing to respect other parties, take seriously the restrictions of just war theory, and accept the institutions and agreements that enable enduring peace to be negotiated”.¹⁷ The ability of a belligerent group to strike a peace accord and respect other parties shows the *external* aspect of Thompson’s analysis. A group may build its credibility by

¹⁶ Ibid, p 93.

¹⁷ Id.

respecting international norms and principles as the primary basis for generating legitimacy. Focusing on internationally accepted norms and procedures and with the endorsement of parties credible to the constituencies, third parties (normally a nation-state) can assist parties to gain sufficient legitimacy to function as 'negotiators'. In utilising this basis, any agreement reached should have sufficient legitimacy with the citizenry that they are willing to support it. Over time, the parties' adherence to the agreement will lend additional credibility to themselves and to the process itself.

The third and final condition, according to Thompson, demonstrates that "in making war or negotiating peace, leaders have to represent the members of an organisation and those from whom the organisation claims to be fighting".¹⁸ The organisation need not be democratic, but must be accountable to the people they claim to represent and, in return, the people must be accountable to the action the group does. In a sense, Thompson's third condition resemble partly with David Miller's *practical requirement* as a necessary condition for any defensible use of violence. Miller argued that for violence to be an effective form of politics, "its users must form part of a broader political movement, and be able to remain part of it, notwithstanding their involvement in violence".¹⁹ It is interesting to see how Miller also distinguished political violence in the context of a broader political support as opposed to 'extreme terrorist acts' carried out by small, isolated groups with very remote aims. It follows that this form of action is deemed to have failed this condition and leaders and members of such a group does not appear to be representing the 'people' they purport to represent.

¹⁸ Id.

¹⁹ David Miller, 'The Use and Abuse of Political Violence', *Political Studies* 32 (1984), p 417.

Thompson's interpretation of 'legitimate authority' helps us to determine whether or not belligerent forces (as opposed to mere terrorist groups) have 'legitimate authority' and so are proper initiators or subjects of war. The deciding factor is whether or not these groups have satisfied the three conditions identified by Thompson above, and the test at hand is whether or not these conditions provide a moral basis to distinguish terrorist acts from acts of war. Despite the centrality of the 'legitimate authority' requirement to just war theory, there is much debate and corresponding divergence over what entities count as to having a 'legitimate authority'. This debate is of great concern to the issue of terrorism and the use of political violence, and in particular, whether or not the so-called 'war on terror' falls within the ambit of just war framework. This would depend on whether such political entities can be a 'legitimate authority' in a relevant sense.

THE 'WAR ON TERROR' AND ARMED CONFLICT IN THE PHILIPPINES: APPLICATION AND ASSESSMENT

We have understood that the goal of just war theory is to uphold guidelines that constrain acts of political violence. When these guidelines are followed, we have a war – ideally a just war – as opposed to a mere criminal violence. This distinction is a morally vital one because, under certain circumstances, war is justifiable, whereas criminal violence may never be justified. However, with the advent of the so-called 'war on terror', the distinction between war acts as oppose to criminal acts has made a huge impact on armed revolutionary movements that legitimately used political violence within the realm of just war theory. In this section, I will look at the armed conflict in the Philippines as a case study. Here, I will argue that the hybrid approach

is fundamentally flawed on moral grounds. Instead, armed groups in the country are justified on using violence according to the standard set-up by Thompson earlier.

The hybrid approach and the 'war on terror'

Those who advance the hybrid 'war-law' approach see contemporary wars as really police actions in which the US and its allies subdue and punish those guilty of breaking the law.²⁰ In an ordinary case of war among states or within states (eg civil wars), soldiers or combatants may well be morally and politically innocents. Many of them are conscripts, and those who are not do not necessarily endorse state policies they are fighting to defend. However, enemy combatants in the 'war on terror' have been seen and branded, mainly by the US, that those who embarked on the path of any form of 'political violence' are 'terrorists'. The Bush Administration, for instance, has claimed that Al-Qaeda is at 'war' with the United States because of the magnitude of its attacks on September 11, 2001. Each of these attack would almost attract prosecution for a serious crime committed; yet, technically speaking, was the Bush Administration right to claim that they add up to a 'war'?

There is something disturbing about this hybrid war-law approach in the context of the 'war on terror'. Surely, using the rhetoric of war rules when law-enforcement rule could reasonably be invoked seems dangerous and unwarranted. In law enforcement rules, errors in criminal investigation are very common and mistakes in the procedure can be rectified by judicial process. But if war rules are applied, the government is never obliged to prove a suspect's guilt, let alone a suspected terrorist can be held and

²⁰ Thompson, op cit, p 96.

detained indefinitely without any trial such as those detainees at Abu Ghraib and Guantanamo Bay. As David Luban puts his criticism succinctly:

Because the law model and war model come as conceptual packages, it is unprincipled to wrench them apart and recombine them simply because it is in America's interest to do so. To declare that Americans can fight enemies with latitude of warriors, but if the enemies fight back they are *not warriors but criminals*, amounts to a kind of heads-I-win-tails-you-lose international morality in which whatever it takes reduce American risk, no matter what the cost to others, turns out to be justified. This, in brief, is the criticism of the hybrid war-law model.²¹

In effect, the hybrid 'law-war model' has seriously undermined rights and freedoms of ordinary citizens around the world. In particular, the 'war on terror', viewed as a hybrid approach, has severely damaged and undermined people's rights and, in particular, the right of the people to self-determination (mainly in countries that are waging armed struggle against state's oppression). It is this right that binds people together, and warrants the group's inclusion in a political entity. The existence of a group as a political entity embedded by norms, rules and principles would be enough to grant the group 'legitimate authority' to regulate its own action.

Armed conflict in the Philippines: a case study

War of national liberation and armed conflict within states are acts of 'war' that have similar status as war between states within the realm of just war theory. With the

²¹ David Luban, 'The War on Terrorism and the End of Human Rights', *Philosophy and Public Policy Quarterly* 22:3 (2002), p 12-13 (emphasis added).

advent of ‘war on terror’, most belligerent groups were called ‘terrorists’ and were seen to be lacking a ‘legitimate authority’ to wage war against a state. In the Philippines, both Muslim separatists movement in the south and left revolutionary group have been waging an armed struggle against an incumbent central government mainly seated in the capital city, Manila.²² In this context, the question of ‘legitimate authority’ has been a contentious issue between armed revolutionary groups and the central government because it is connected with the issue of a ‘belligerent status’ of an entity under the rules of war. I will now argue that the National Democratic Front of the Philippines (NDFP), with its leading organisations – the Communist Party of the Philippines (CPP) and its armed wing the New People’s Army (NPA), has long-established its political legitimacy and belligerent status both inside and outside the country effectively according to the just-war theory guidelines and standard discussed by Thompson above.

First, the NDFP is an organisation in control of the use of violence of its members and has a formal political structure. As a belligerent force, “it has a demonstrated national political leadership over a considerable part of the population and territory of the Philippines; has effective command over a sizeable people’s army; and comprehensively performs functions of government through local organs of political power which may be summarily called the people’s revolutionary government”.²³

Today, the NDFP is found in most of the 73 provinces in the Philippines. The NPA

²² For the purpose of this essay, I will only focus my discussion on the conflict between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP) of which the Communist Party of the Philippines (CPP) and its armed wing, the New People’s Army (NPA), are the leading member organisations of the NDFP. I will therefore leave-out the discussion of the conflict between the GRP and the Moro Islamic Liberation Front (MILF) because of the limited space of discussion.

²³ National Center for People’s Art and Literature, *War and Peace in the Philippines: The Question and the Quest* (BUGKOS: QC, 1992), p 15.

has 128 guerrilla fronts throughout the country, which consists of at least three divisions or nine brigades or 27 battalions of full-time troops, people's militia and self-defence units. The NPA is under an effective and responsible command as main armed force of the organs of political power – the CPP and the NDFP, and exercises such control over a significant portion of territory in the Philippines as to be able to carry out sustained and concerted military operations with the adherence to the Geneva Conventions of 1949 and additional Protocols of 1977.²⁴ Contrary to the popular belief that the NPA is a ‘rag-tag band of poor, young uneducated Filipinos’, E. San Juan argues that the NPA is not simply a military formation or a war machine; but it embraces “participatory democratic principles and practiced designed to arouse mass involvement in a conscious and creative manner”.²⁵ Furthermore, troops and commanders of the NPA follow a strict code of conduct under the rubrics of the Three Main Rules of Discipline and Eight Points of Attention requiring them to adhere strictly with the rules of war and within the constraints of just war theory.²⁶

Second, the NDFP is able to satisfy Thompson’s second condition in that the organisation is capable of adhering to its rights and obligations as a belligerent force that respect other parties, institutions and agreements, which enable enduring peace to be negotiated. Since 1992, the NDFP has been holding peace talks with the Government of the Republic of the Philippines (GRP) to address the roots of the armed conflict. Ten Agreements have been signed between the two parties including the Comprehensive Agreement on Respect for Human Rights and International

²⁴ See NDFP Declaration of Undertaking to Apply the Geneva Conventions of 1949 and Protocol I of 1977 (5 July 1986) at: <http://home.wanadoo.nl/ndf/about/ndf_on_geneva_protocol.html>.

²⁵ E. San Juan, *Crisis in the Philippines: The Making of a Revolution* (Bergin & Garvey: Massachusetts, 1986), p 136.

²⁶ See NPA section at: <<http://www.philippinerevolution.org/npa/tun.shtml>>.

Humanitarian Law (CARHRIHL).²⁷ At present, the current Philippine President, Gloria Macapagal-Arroyo has suspended peace talks, thus putting into hold the discussions on the Comprehensive Agreement on Socio-Economic Reforms, which the NDFP accusing the GRP of not doing enough to resolve the outstanding issue of “terrorist listing”.²⁸ The NDFP also has an institutional framework overseas. The NDFP maintains an information office in Utrecht, the Netherlands. This office is the centre of information from the Philippine revolutionary movement to the international community. It is a channel through which the international community can extend their political and material support to the NDFP and the Philippine revolutionary movement. It is important to contrast the NDFP’s belligerent standing with other armed groups in the Philippines that resort to the use of extreme political violence (eg ‘terrorism’) as a means to an end. Such an example I have in mind is the Abu Sayyaf group (ASG). The ASG does not look as if it is an organisation that is willing to make a peace accord that respects other parties’ rights and privileges under conventions and agreements. For the ASG, “the only goal is the rule of the Koran, not autonomy, not the Tripoli Agreement, not independence”.²⁹

In line with Thompson’s third condition, the NDFP is directly accountable to the people it purports to represent and, likewise, the people is prepared to be accountable for the actions it does. So the question now is who is the ‘people’ that confers legitimacy or accountability on a group at war? The ‘people’, according to Sison and de Lima, “composed of a broad movement of the toiling masses of workers and

²⁷ See NDFP Human Rights Monitoring Committee, *Important Documents on the Joint Monitoring Committee* (Published by NDFP Nominated Section of the Joint Secretariat to the GRP-NDFP Joint Monitoring Committee with assistance from the Royal Norwegian Government: QC, 2004).

²⁸ Bobby Tuazon, ‘On the GRP-NDFP Talks: Clearing the Humps’ *Bulatlat* 4:47 (Dec 2004-Jan 2005) at: <<http://www.bulatlat.com/news/4-47/4-47-humps.html>>.

²⁹ Marites Dañguilan Vitug & Glenda M Gloria, *Under the Crescent Moon: Rebellion in Mindanao* (Ateneo Center for Social Policy & Public Affairs: QC, 2000), p 206.

peasants and the middle social strata, the political left and the armed and unarmed revolutionaries... waging various forms of revolutionary struggle – legal and illegal”.³⁰ Indeed, the NDFP comprised of 17 allied organisations that forms the united front of basic forces of people from different walks of life.³¹ The NDFP has made known to the public that it is willing to agree with the GRP on the mechanisms and processes of undertaking ceasefires on the basis of humanitarian considerations, for limited periods of time, that are defined in a formal agreement on human rights and international humanitarian law. Its willingness and accountability is shown with the establishment of the Joint Monitoring Committee (JMC) to monitor the implementation of the CARHRIHL as well as to receive complaints of alleged violations of human rights and international humanitarian law by the GRP and the NDFP, the parties to the armed conflict, and to carry out fact-finding investigations of such complaints.³² So far, there are 101 complaints of human rights violations that have been filed against the GRP to the Joint Monitoring Committee and no case has been filed yet against the NDFP, particularly with the NPA.³³ This shows that it is, in fact, the state who is committing widespread violence against its own citizen and the armed group is the one that is consistently adhering to the agreements and instruments it signed in accordance with the rules of war and just war theory. As Sison rigorously maintained: “The acquiescence of political legitimacy and the status of belligerency neither can be vested nor pre-empted by any document or paper. It is something

³⁰ Jose Maria Sison and Julieta de Lima, *Philippine Economy and Politics* (Aklat ng Bayan: Philippines, 1998), p 119.

³¹ See Revolutionary Allied Organisations in the National Democratic Front of the Philippines at: <<http://home.wanadoo.nl/ndf/about/member-orgs.html>>.

³² See NDFP Human Rights Monitoring Committee, op cit, p 2.

³³ Karl G. Ombion, ‘101 HR Cases Filed vs Gov’t’ *Bulatlat* 4:26 (Aug 2004) at: <<http://www.bulatlat.com/news/4-26/4-26-101.html>>.

acquired through the people's revolutionary struggle and the building of their democratic political power".³⁴

CONCLUSION

Clearly, political legitimacy can be ascribed to non-state actors if they meet the conditions imposed by just war theory. Held's arguments showed that non-state actors who resort to the use of political violence including 'terrorism' can become legitimate representative of the people they claim to represent. According to her, legitimacy can be attained through popular support and international recognition. But Held's arguments fell short to consider the dichotomy between 'acts of war' and 'acts of crimes'. Thompson's position is more plausible because it helps us to determine whether or not belligerent forces (compared to mere terrorist groups) have a legitimate authority and so are proper initiators or subjects of war. For Thompson, it is fundamental to maintain the difference between the two acts within the context of just war theory because it shows how legitimate authority can be ascribed to such armed groups.

Indeed, the 'war on terror' has added an extra-dimension on the blurring division between the two acts. Genuine armed revolutionary movements in most third-world countries were affected and were lumped into one category – called 'terrorists'. The armed conflict in the Philippines, as we saw, is a good case in point. In applying Thompson's ethical standards in the Philippine context, it is clear that the NDFP is justified on using political violence. It has a 'legitimate authority' because violence is

³⁴ Jose Maria Sison, *The NDFP Framework in Contrast with the GRP* (15 May 1991) at: <http://home.wanadoo.nl/ndf/peace/on_peace/framework03.html>.

being employed within the ambit of just war theory and has a long-established 'belligerency status' within the 'people' it deems to represent, that is recognised by international conventions and supported by third-party states outside the country.

BIBLIOGRAPHY

- Buchanan, Allen, 'Political Legitimacy and Democracy', *Ethics* 112 (2002), pp 689-719.
- Coady, C. A. J, 'The Morality of Terrorism', *Philosophy* 60 (1985), pp 47-69.
- Dañguilan Vitug, Marites & Gloria, Glenda M, *Under the Crescent Moon: Rebellion in Mindanao* (Ateneo Center for Social Policy & Public Affairs: QC, 2000).
- Held, Virginia, 'Legitimate Authority in Non-state groups Using Violence', *Journal of Social Philosophy*, 36:2 (2005), pp 175-193.
- Luban, David, 'The War on Terrorism and the End of Human Rights', *Philosophy and Public Policy Quarterly* 22:3 (2002), pp 9-14.
- Miller, David, 'The Use and Abuse of Political Violence', *Political Studies* 32 (1984), pp 401-419.
- Miller, Richard, 'Terrorism and Legitimacy; A Response to Virginia Held', *Journal of Social Philosophy*, 36:2 (2005), pp 194-201.
- National Center for People's Art and Literature, *War and Peace in the Philippines: The Question and the Quest* (BUGKOS: QC, 1992).
- NDFP Declaration of Undertaking to Apply the Geneva Conventions of 1949 and Protocol I of 1977 (5 July 1986) at:
<http://home.wanadoo.nl/ndf/about/ndf_on_geneva_protocol.html>.
- NDFP Human Rights Monitoring Committee, *Important Documents on the Joint Monitoring Committee* (Published by NDFP Nominated Section of the Joint Secretariat to the GRP-NDFP Joint Monitoring Committee with assistance from the Royal Norwegian Government: QC, 2004).
- Ombion, Karl G. '101 HR Cases Filed vs Gov't' *Bulatlat* 4:26 (Aug 2004) at:
<<http://www.bulatlat.com/news/4-26/4-26-101.html>>.
- Roth, Kenneth, 'The Law of War in the War on Terror', *Foreign Affairs* (January/February 2004).
- San Juan, E. *Crisis in the Philippines: The Making of a Revolution* (Bergin & Garvey: Massachusetts, 1986).
- Sison, Jose Maria, *The NDFP Framework in Contrast with the GRP* (15 May 1991) at: <http://home.wanadoo.nl/ndf/peace/on_peace/framework03.html>.
- Sison, Jose Maria and de Lima, Julieta, *Philippine Economy and Politics* (Aklat ng Bayan: Philippines, 1998).

Thompson, Janna, 'Terrorism and the Right to Wage War' in Tody Coady and Michael O'Keefe (eds) *Terrorism and Justice: Moral Argument in a Threatened World* (Melbourne University Press: Melbourne, 2002), pp 87-96.

Tuazon, Bobby, 'On the GRP-NDFP Talks: Clearing the Humps' *Bulatlat* 4:47 (Dec 2004-Jan 2005) at: <<http://www.bulatlat.com/news/4-47/4-47-humps.html>>.

Valls, Andrew, 'Can Terrorism be Justified?' in Valls, A (ed) *Ethics in International Affairs: Theories and Cases* (Rowman & Littlefield, 2000), pp 65-79.

Young, Iris Marion, 'Two Concepts of Self-Determination' in Austin Sarat and Thomas R. Kearns (eds) *Human Rights: Concepts, Contests, Contingencies* (University of Michigan Press: Michigan, 2001), pp 25-44.