



**Mindanao:**

**Understanding Conflict 2014**

**Conflict Management Program**

**Student Field Trip to Mindanao**

Yasmin Anis	Akhila Raman
Léonie Evers	Oliver Russell
Joseph Geni	Cormac Sullivan
Helga Kalm	Michelle Thompson
Benjamin Merrill	Ryan Whalen
Felix Neugebauer	Constance Wilhelm
Panagiotis Olympiou	Ayeda Wondimu
Munkyoung Park	Reneé Wynveen

*Edited by Dr. P. Terrence Hopmann and Dr. I. William Zartman*



# Table of Contents

Acknowledgements

List of Acronyms

Introduction .....I. William Zartman

## **Part I: Identities and Historical Narratives as Sources of Conflict in Mindanao**

1. The Evolution of Moro Identity .....Yasmin Anis
2. Muslim Identity in the Peace Process and Bangsamoro Governance .....Léonie Evers
3. Identity Politics: The MNLF, the MILF, and What Their Differences  
Mean for the Transition .....Constance Wilhelm
4. Ancestral Domain, Cyclical Displacement, Resources, and the  
Peace Process in Mindanao.....Reneé Wynveen

## **Part II: Negotiating Peace in Mindanao**

5. Malaysian Mediation in the Framework Agreement  
on the Bangsamoro ..... Munkyoung Park
6. The Role of the International Contact Group in the Negotiations ..... Helga Kalm
7. The Philippine Constitution and the Framework Agreement on the  
Bangsamoro.....Felix Neugebauer
8. The Role of Women in the Peace Process.....Akhila Raman

## **Part III: Political Challenges in the Implementation of the Comprehensive Peace Agreement**

9. The Bangsamoro Transition Commission: Challenges in Fulfilling  
its Political and Confidence-Building Mandates .....Michelle Thompson
10. Future Relations Between the Bangsamoro and the Government of the  
Philippines: Can Autonomy Work Better in the New Relationship than  
in Previous Attempts?..... Joseph Geni
11. The Challenges of Transforming the MILF into a  
Political Entity .....Benjamin Merrill
12. Potential Spoilers in Mindanao.....Panagiotis Olympiou

## **Part IV: Security and Economic Challenges for Stable Peace**

13. From Successful Ceasefires to Stable Peace: Third Parties, Civilian  
Protection and Security Sector Reform in Mindanao.....Oliver Russell
14. DDR in Mindanao: Disarming Rebels and the Transition from  
War-Fighting to Policing .....Ayeda Wondimu
15. Post-Conflict Economic Reconstruction in Mindanao ..... Cormac Sullivan
16. Delivering Foreign Aid to Mindanao: Challenges and Opportunities ..... Ryan Whalen

Conclusion ..... P. Terrence Hopmann

List of Interviews

Bibliography



## Acknowledgements

All of the participants in this field trip and authors of chapters in this volume would like to acknowledge the assistance of many people who made this field trip experience become not only a reality, but an unforgettable experience for all of us. We first want to thank the Starr Foundation for a grant that made it financially possible to take the Conflict Management Field trip to an Asian destination for the second time.

We are also grateful to the many people who helped to arrange meetings with so many relevant parties during our stay in both Manila and Cotabato City. In the former case, we would especially like to thank Dr. Steve Rood, Director of the Philippines Office of the Asia Foundation, who provided a comprehensive background briefing upon our arrival in Manila and was of great assistance in arranging meetings with key figures in the government and NGO community in Manila. We extend a special thanks to Ms. Noa Levanon Klein, a SAIS PhD student and veteran of our 2011 trip to the Philippines, for arranging and coordinating many of our meetings during our stay in Manila, while she was engaging in research for her PhD dissertation.

Our trip to Cotabato City and the many meetings we held, including MILF and Bangsamoro leaders, international actors, members of the negotiating teams, and representatives of civil society organizations, would not have been possible without the leadership of Attorney Zainudin Malang, director of the Mindanao Human Rights Action Center (MinHRAC), and his entire staff. They accompanied us from the moment of our arrival at Cotabato Airport to our departure, and we are all extremely grateful for their openness and hospitality in welcoming us to Mindanao. MinHRAC's thorough arrangements, continuous dialogue, Zen's frequent debriefings after our meetings, and the overall friendship of all of our hosts in Cotabato City were invaluable. Zen and his colleagues truly represent the commitment of the Moro people to peace and justice, and we wish them all the very best in reaching those goals now that the Comprehensive Peace Agreement has been signed.

Finally, of course, we want to thank all of the many individuals and organizations with whom we met during our eight days in the Philippines; their names are too numerous to mention here, but they are all identified in the attached itinerary of our meetings in both Manila and Cotabato City. It is a rare occasion to have an opportunity to meet such a diverse group of interesting people, including the heads of both negotiation teams, the Chairman of the MILF and the General Staff of the BIAF, NGOs active in the peace process and international actors, both governmental and INGOs, who assisted in its negotiation and will be crucial to its implementation; they all are part of the diverse fabric that constitutes both the conflict and the aspirations for a future of peace with justice and development throughout the region.

In conclusion, we would like to dedicate this report to the memory of Eugene Martin, SAIS Professorial Lecturer, former director of the Mindanao Project at the US Institute of Peace and former US Ambassador to the Philippines. Gene Martin was invaluable in sharing with us his many contacts in the Philippines, especially in Cotabato City, for our trip in 2011, without which we would not have been able to make the arrangements that we did for this year's trip. Sadly he did not live to see the conclusion of the peace agreement in Mindanao for which he worked for so long, and this year's group of students never had an opportunity to hear his words of wisdom about the Mindanao peace process, but his presence was with us throughout our entire trip. The full extent of his contribution to the Mindanao peace process may never be fully recognized, but we wish here to acknowledge that contribution and to express our sadness that he was not able to witness the final fruits of his many efforts for realizing peace with justice in Mindanao.







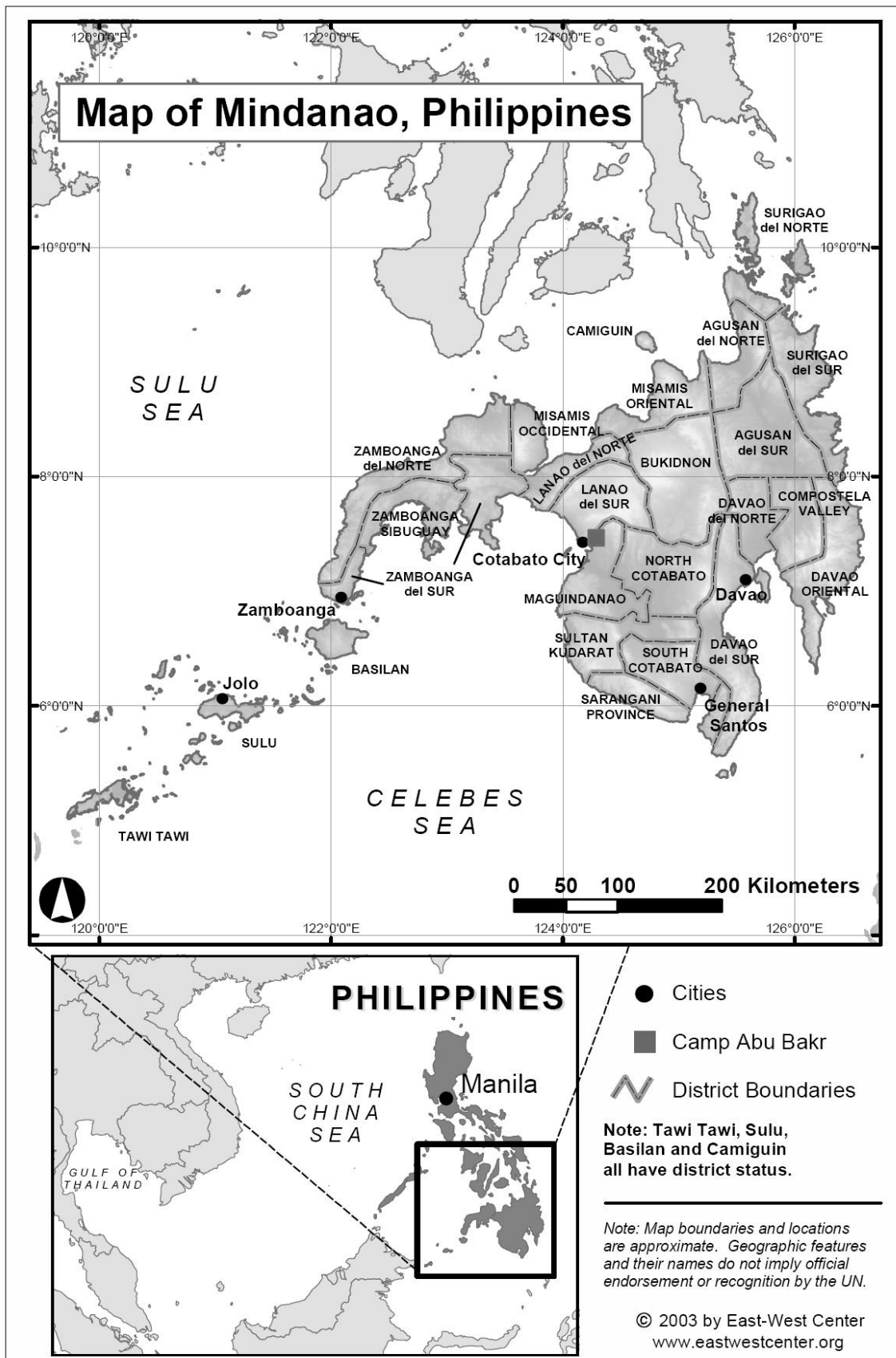
## **List of Acronyms**

AFP	Armed Forces of the Philippines
AHJAG	Ad Hoc Joint Action Group
ARMM	Autonomous Region of Muslim Mindanao
ASEAN	Association of Southeast Asian Nations
ASG	Abu Sayyaf Group
BBL	Bangsamoro Basic Law
BDA	Bangsamoro Development Agency
BIAF	Bangsamoro Islamic Armed Forces
BIFF	Bangsamoro Islamic Freedom Fighters
BLMI	Bangsamoro Leadership and Management Institute
BTA	Bangsamoro Transition Authority
BTC	Bangsamoro Transition Commission
CAFU	Civil Armed Forces Unit
CCCH	Coordinating Committee on the Cessation of Hostilities
CDD	Community-Driven Development
CPA	Comprehensive Peace Agreement
CPC	Civilian Protection Component
DDR	Disarmament, Demobilization, and Reintegration
DPWH	Department of Public Works and Highways
FAB	Framework Agreement on the Bangsamoro
FPA	Framework Peace Agreement
GPH	Government of the Philippines
HD Centre	Centre for Humanitarian Dialogue
HDI	Human Development Index
ICG	International Contact Group

ICP	Independent Commission on Policing
IDB	Independent Decommissioning Body
IDP	Internally Displaced Person
IMT	International Monitoring Team
INGO	International Non-Governmental Organization
IP	Indigenous Peoples
IPSP	Internal Peace and Security Plan
IPRA	Indigenous Peoples' Rights Act
IRA	Irish Republican Army
J-BiRD	Japan Bangsamoro Initiatives for Reconstruction and Development
JCCCH	Joint Coordinating Committee on the Cessation of Hostilities
JCMPs	Joint Ceasefire Monitoring Posts
JICA	Japanese International Cooperation Agency
JNC	Joint Normalization Committee
JPSC	Joint Peace and Security Committee
JPSTs	Joint Peace and Security Teams
KIM	Khilafa Islamiya Mindanao
LGU	Local Government Unit
LMT	Local Monitoring Team
MCSOPP	Mindanao Civil Society Organizations Platform for Peace
MILF	Moro Islamic Liberation Front
MinDA	Mindanao Development Authority
MinHRAC	Mindanao Human Rights Action Center
MNLF	Moro National Liberation Front
MNLF-MG	Misuari Group
MOA-AD	Memorandum of Agreement on Ancestral Domain
MTF	Mindanao Trust Fund

NCIP	National Commission on Indigenous Peoples
NEDA	National Economic and Development Authority
NGO	Non-Governmental Organization
NPA	New Peoples' Army
ODA	Official Development Assistance
OIC	Organization of Islamic Cooperation
OPAPP	Office of the Presidential Adviser on the Peace Process
PAGs	Private Armed Groups
PCID	Philippine Council for Islam and Democracy
PNP	Philippines National Police
TPMP	Third Party Monitoring Teams
USAID	United States Agency for International Development
UN	United Nations
UNICEF	United Nations Children's Fund
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
UNITA	National Union for the Total Independence of Angola
VTT	Values Transformation Training







# **Introduction: Mindanao II Report**

## **I. William Zartman**

Three years ago, 19 graduate students and their professor on the sixth SAIS Conflict Management Field Trip visited the two main islands – Luzon and Mindanao – of the Republic of the Philippines to discuss the conflict and its resolution with over three dozen figures at all levels, and issued a detailed analytical report with recommendations. On 15 October 2012, the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) signed a Framework Agreement on the Bangsamoro (The Moro Nation) (FAB). On 15-23 January 2014, 16 graduate students and their professors returned to the region for the ninth CM Field Trip<sup>1</sup> to discuss the current stage of the conflict and the status of the FAB. Two days after their return, the two parties signed the Kuala Lumpur Comprehensive Agreement on Bangsamoro (CAB) ending decades (or perhaps centuries) of conflict on Mindanao.

The salient facts were quite different in the current period and the mood reflected them. The earlier period was marked by a many-partied turf fight including the historic conflict waged against both Spanish and then US colonization by the formerly independent sultanate of Sulu, the contemporary form of that conflict between the MILF and the Government of the Republic of the Philippines (GPH), the conflict over land ownership between traditional Muslim inhabitants and more recent Christian settlers, and also a conflict over perceived personal or family honor underlying the practice of *rido* or honor retaliation within the Mindanaoans. The conflict was fed by and also fed endemic corruption within the economic and political coteries of Manila, with the interlocking dependencies between conflicting pieces of one side with conflicting pieces of the other. These interlocking conflicts that were dominant in 2011 left no firm ground to stand on, and righting one party's wrongs often wrongs another party's rights.

---

<sup>1</sup> Nagorno Karabakh, January 2013; Tunisia, January 2012; Mindanao, January 2011; Kosovo, January 2010; Cyprus, January 2009; Northern Ireland, January 2008; Haiti, January 2006 and January 2007. Reports from previous Field Trips are available at <http://www.sais-jhu.edu/programs/cm/activities>.

These conflicts are all still present, but the overwhelming concern is forward, not backward, looking. While this may not be surprising given the signature of the final agreement, it is notable that the continuing nexus of conflicts has not destroyed the commitment and perseverance of the parties to move to implementation on a pressing schedule. The schedule is imposed by the constitutional rhythm of Philippine politics, which ends the presidential terms in 2016 for Benigno Aquino III, the committed patron of the settlement. The schedule is the main driver of current concerns, with prior conflicts and present commitments taking their importance from the pressure of the deadline. By 2015, the Bangsamoro Transition Commission (BTC) must draft the Bangsamoro Basic Law (BBL) legally defining the internal structure of the Bangsamoro Transitional Authority (BTA), a document that will establish the basic elements of the new Bangsamoro political entity, which will then need approval as law by the Philippine Congress and signature into law by the President, and then territorial definition by local referenda to determine the cities and municipalities included in the new autonomous region. The BTA will then have a year to govern the Bangsamoro, the Philippines' poorest region. By the end of the period, the MILF will have to turn itself from a liberation movement into a political party to contest the 2016 elections for the first elected Bangsamoro government. Each of these steps requires more time than is available, and yet the success of the transition depends on success before the challenge.

The previous rounds in the process of meeting Moro demands failed to satisfy their challenges, and their story shows how dependent the process is on the presence of a particular person in the presidency, limited to a six-year term, and indeed how much each president's policy is focused on undoing the work of his or her predecessor (on the background to the conflict and the present negotiations, see Hopmann and Zartman 2011). The first negotiations four decades ago produced the Tripoli Agreement on local autonomy in 1976 with the Moro National Liberation Front (MNLF) and the government of Ferdinand Marcos, who then worked to undermine it by encouraging large-scale immigration of Christian settlers from Luzon. When Marcos was overthrown, the new government of Corazon Aquino passed a new constitution in 1987 that provided for an Autonomous Region of Muslim Mindanao (ARMM). Presidents changed, negotiations dragged, violence rose, and it was not until 1996 that the negotiations under Fidel Ramos



produced the Djakarta Agreement to implement the Tripoli Agreement in agreement with the MNLF. The MILF judged the arrangement unsatisfactory and rose to prominence by returning to violence and so did the government under Joseph Estrada, who launched “total war” on the rebels. His successor Gloria Macapagal-Arroyo returned to negotiations, now with the MILF, ending in a Memorandum of Agreement on Ancestral Domains (MOO-AD) in 2008, then overturned by the Supreme Court. The new Bangsamoro Framework Agreement and its Annexes and the Comprehensive Agreement have built on the previous steps, each constituting a minimal limit on which each new step had to improve. One sign of the attention to that improvement is the presence of the four Framework Annexes (on Transitional Arrangements, on Revenue and Wealth, on Power Sharing, and on Normalization, of 27 February, 13 July, and 8 December 2013 and 25 January 2014, respectively) in preparation for the Comprehensive Agreement.

Another sign of the careful preparation for the transition has been the complicated and innovative negotiating process. The first element of assistance was the Malaysian mediator who gently guided the process. Ceasefires and implementation was carefully observed by an International Monitoring Team (IMT). A Coordinating Committee on the Cessation of Hostilities (CCCH) controlled movements of the two sides’ armed forces, while an Ad Hoc Joint Action Group worked with the regular armed forces to investigate and restrain irregular armed activity. Around the process, a highly innovative International Contact Group composed of both government officials and private Non-Government Organization (NGO) members served to facilitate the interaction. The negotiation process has taken all the measures possible, and then some innovative ones, to assure a smooth working coverage of all possible issues.

The Agreements mark the beginning of real cooperation between the MILF, hopefully incoming government, and the GPH, continuing government under conditions to be determined for the whole island country. Former enemies and then negotiating opponents have to learn to continue their rapprochement to become partners. Cooperation in the CCCH is the beginning of necessary relations between the Armed Forces of the Philippines and the Bangsamoro Islamic Armed Forces (BIAF), but these two legitimate armed forces of the two entities have to join forces against the various irregular militias and spoilers. The ARMM is looking to convert the functioning parts of

its operations into a working element of the new BTA. Local authorities, notably police and family notables, as well as their links to string-pullers in Manila have to learn to look to the Bangsamoro as the new authority. Back in Mindanao, the Moros of Bangsamoro Muslims need to include in their own pride the Indigenous Peoples who are also equal citizens with their own ancestral domains. In sum, a fully new situation – political, social, and economic – is created which will require a change of mentalities and cultures at the same time as it represents a long-sought victory of political cultures.

Over 8 days in two locations – Manila and Cotabato City, from the capital to the MILF jungle camp – the SAIS group met with some 40 diverse individuals embodying the hopes, grievances and demands of both sides. The result of this intense experience is the following careful analysis of the promising, delicate situation, with some creative and imaginative recommendations, laid out in the following essays. Some of the recommendations are original, to start people thinking in new directions; others emphasize the importance of points already in public discussion but their highlighting in this report serves to emphasize their importance. These essays illustrate the insights, mechanisms and measures that the field of conflict management can bring to conflicted situations. They also emphasize the need for the parties to feel the responsibility for pursuing the solution that they have devised, for adapting their behaviors to the new situation they have created, and for working together with former adversaries to avoid a return to a conflict that is harmful for both sides and their populations. The history of marginalization of the Bangsamoro by the Filipino majority and rejection of Filipino identity by many Moros makes integration difficult on all sides. But the long history of alternating violence and tenuous ceasefires has created a lose-lose situation from which both sides need to find a way out. We offer the following analyses and recommendations as a help in the process.

**Part I: Identities and Historical Narratives as Sources of  
Conflict in Mindanao**



# **The Evolution of Moro Identity**

**Yasmin Anis**

The Bangsamoro Transition Commission stipulates that the Comprehensive Agreement on the Bangsamoro, endorsed by both the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF), finally gives official recognition to the ‘Bangsamoro identity.’ It has become a point of pride, a victory. It indeed should be hailed as an achievement that Manila has finally acknowledged a Bangsamoro identity that is different from that of the Republic of the Philippines. But the question arises of what is the Bangsamoro identity?

This chapter argues that although this conflict very much revolves around the Bangsamoro identity, there is no one definition for it. It is rather a collection of sub-identities that are linked to a host of factors historically rooted in, but not limited to, religion, geography and clan culture. It therefore becomes almost impossible to disentangle and comprehend the depth or breadth of what it means to be Moro or part of the Bangsamoro. It can also be argued that although the term Moro refers to Filipino Muslims, deriving from the term the Spaniards used to call the Arabs in Spain, the broader term Bangsamoro has now come to symbolize the region in which both Moro and non-Moro tribes live. Therefore it can be said that the Bangsamoro identity is broader in scope and includes many of the non-Muslims in the area.

The Moro identity is rooted in historical, economic and religious arguments. There is no single adequate definition for it. Over time it has become a complex social phenomenon that has developed alongside the evolution of the conflict. It would be a mistake to pinpoint the core meaning of the identity solely to Islam. The Moro identity is indeed linked historically to the spread of Islam through the southern archipelagos. The term Moro itself originated from the Spanish “Moor,” considered a derogatory term to describe the Arab populations in Spain. This negative connotation was then applied by the Spaniards to the Muslim population in the south of the Philippines, and despite a long resistance to the term ‘Moro’ the Muslim Mindanaoans eventually began to incorporate it into their narrative and it became their unifying identity, that with which they could stand

united against the flow of occupiers to come. However it is not only linked to religion but also to the ongoing marginalization of the peoples living in Muslim Mindanao who now occupy the new 'Bangsamoro.' The term Bangsamoro, Bangsa originating from the Malay word for nation, suggests a wider and more inclusive definition for the Bangsamoro people. This goes hand in hand with section 1, clause 5 of the Framework Agreement of the Bangsamoro:

“The Parties recognize Bangsamoro identity. Those who at the time of conquest and colonization were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands including Palawan, and their descendants whether of mixed or of full blood shall have the right to identify themselves as Bangsamoro by ascription or self-ascription.”

This broader definition of identity includes any “native or original inhabitant of Mindanao,” intentionally avoiding reference to religion. It goes on to say, “the freedom of choice of other indigenous peoples shall be respected,” which is vague language that can be used either to include or exclude other groups depending on the context. Ultimately there seems to be some sort of consensus on a larger Bangsamoro identity, but when more closely scrutinized the sub-identities prove divisive rather than unifying.

### **Self-Determination**

Although one encounters different definitions of the Bangsamoro identity, many agree that on the basic level the Moro identity has evolved from the fight for self-determination, and therefore any person or group of persons who are part of that struggle are inherently part of the larger Bangsamoro identity. As one civil society member put it “Moro identity is a manifestation of our struggle for self-determination” (SAIS group meeting, 19 January 2014). The rhetoric around the discussion of identity has a near patriotic tone to it. The distinction from the north is always clearly made, with this member of civil society continuing to say the Manilans “don’t want to accept that there are people still struggling in the South when the North gave in. We are still fighting for our culture and traditions to be practiced.” Herein lies one of the main arguments

regarding the discussion of Moro identity. Moro identity is unified in that it centers around the idea of resistance to the Filipino identity. The Moro identity is steeped in the historical narrative of struggling against invading powers and the injustices of the process by which they became part of the modern Filipino state. Many Bangsamoro activists argue that the United States unjustly turned over the sovereign Muslim Sultanates of Mindanao to the newly independent Philippine Republic, as part of the Spanish Philippines, after the Spanish-American War in 1898, under the expectation that these previously self-governing sultanates would accept the Filipino identity imposed on them. The reality was that Mindanao had already known independent governance under the sultanates; it had always been autonomous, yet it faced Spanish invasion, was ceded to the United States and ultimately included in the modern Philippine state when the US granted it independence in 1946.

The history of the modern day Filipino state includes significant marginalization of the Muslim communities of the south coupled with insufficient recognition of the unique Mindanoan narrative. This rhetoric started with the first independent Filipino government headed by Manuel Quezon, and for a large part has been the case up until the regime in power today. The subsequent post-independence governments had similar policies, although some were pursued more aggressively than others. As Abinales aptly points out, the government recognized the separate Muslim identity but made no real attempt to incorporate it into the Philippines nation-state; it recognized the significantly lower levels of economic growth in Mindanao but did nothing to develop it; and ultimately it aided in creating political elites who were charged with maintaining stability in Mindanao, but instead simply built patronage networks only benefiting themselves (Abinales, 188). This was worsened by the waves of Christian migrants who were being urged to resettle in the south with promise of land. Prior to the arrival of the Christian immigrants there was no 'official' land registration system in place, which meant 'giving' this land to the Christians was made simpler (Abinales, 216). From here began the Moro fight for ancestral domain. Resistance is therefore inherently built into the Moro identity as can be seen by the Spanish-Moro conflict, the Moro rebellion against the United States, and most recently the four decades of fighting against the Philippine government. At the core of the Moro identity is the sense of injustice it has faced throughout history.

At the heart of the call for self-determination is the historically rooted belief that they were robbed of their autonomy more than once.

### **Identity vs. Citizenship**

The major issue that local people have is with the unified identity imposed by Manila. “The Bangsamoran feel they have a separate identity and there is a distinction to be made between identity and citizenship. We will be citizens of Philippines but respect our identity” (SAIS group meeting, 18 January 2014). Attorney Naguib Sinarimbo continued on to argue that the failure of many of the previous peace agreements stems from the fact that the government of the Philippines had not made this important distinction between citizenship and identity. It has therefore been made clear in the latest agreement, “all peoples in the Bangsamoro are Filipino citizens. The name Bangsamoro thus is a national identity, not a state citizenship” (Q&A section, FAB). A state refers to a political community organized under one government, while a nation refers to a common set of characteristics that unifies a community such as common history, language, culture etc. In this sense the Bangsamoro people might be willing to see themselves as part of the Filipino state but not part of a Filipino nation. Under this framework agreement the Bangsamoro people seem to be accepting the fact that they are part of the Filipino state, but this has not always been the case. MinHRAC, in an article titled the *Nexus between Philippine’s Constitutionalism and the Mindanao Conflict*, aptly describes the conflict as a ‘clash between two imagined nations.’ A clash between the Filipinos and the Moro’s that sees “one nation’s re-assertion of its identity by invoking its right to self-determination met with an equally determined government responses intent on preserving the unity of the Philippines as a nation” (Malang 2014). This not only goes back to the importance of self-determination in forming identity, but also suggests the close connection between the Moro identity and the rejection by the Moro people of the Filipino nation forced upon them. It also explains why it has proven difficult for Manila to accept the Bangsamoro. The survival of one entity seems to hinge on the rejection of the other. The Moros based their survival on the continuous fight for self-determination and hence a rejection of the Filipino identity, while the central Philippine government’s primary goal is the maintenance of the Philippines as a unitary state, which requires a



rejection of an independent Muslim Mindanao. This has been one of the primary sources of the conflict up until this point. Moving forward the parties need to agree on being part of a common state while recognizing different sets of national identities.

### **The Role of Religion**

Despite the many broader definitions of Moro identity, the direct link to Islam cannot be ignored. Historically at the core of the Moro identity is the arrival of Islam in the 15<sup>th</sup> century. From the creation of the first Islamic sultanates began the evolution of a Moro identity based on self-governance, which has ultimately led to this new Bangsamoro. It is therefore safe to say that the non-Muslim groups might share in the Moro identity, yet also feel excluded due to historical and religious differences. However it would be a mistake to assume that there is even a unified Bangsamoro identity within the Muslim community. The Moros are made up of 13 distinct tribal groupings: Tausug, Maranao, Maguidanao, Kalagan, Sanguil, Ilanun, Kolibuga, Yakan, Samal, Badjao, Jama Mapung, Palawan, Molbog (Hui 2012). Regardless of the fact that they are all unified by Islam, individuals will first and foremost identify or introduce themselves not as Muslim but rather as a Tausug or a Maguidanaoan. The divisions go much beyond the issue of religion. However this does not mask the fact that the Christian population is still a minority within the Bangsamoro region, concerned about what role they will play in the future Bangsamoro entity. In many instances the Christian minority in the Bangsamoro still identifies more with the Filipino Christian majority. They were persuaded to emigrate to the south with the promise of more opportunity. The GPH gave them land as promised and they settled, but this has not severed their ties to families and communities back north. Cardinal Quevedo points out that, to a certain extent, the Bangsamoro has come to be viewed as a modern construct; therefore, for many Christians the Filipino Christian identity still endures. The Mindanaoan Christian identity might be strong but it is not separable from the rest of the Filipino Christians. However if the Christian settlers want to be considered part of the Bangsamoro entity in the future, they need to embrace their ‘citizenship’ within the Bangsamoro as they do their larger Filipino identity.

Muslim identity is part of the Moro identity; however, it is not the whole Moro identity. The Bangsamoro has specific characteristics that surpass religious boundaries. Islam is an element of a larger picture.

### **Indigenous People**

There are 18 non-Muslim indigenous groups in Mindanao referred to as the Lumad.<sup>2</sup> The situation of the indigenous people is perhaps the most problematic. It differs from the Christian minorities within the Bangsamoro because, unlike the indigenous groups, the Christian settlers are able to relate to the large Filipino Christian majority across the country. The situation differs for the indigenous people of the Bangsamoro. Many of the indigenous populations live in the mountainous regions of Mindanao, allowing them historically to remain least affected by the foreign influences, which meant they were able to preserve many of their traditional customs. However, as the dialogue continues regarding the definition of the Bangsamoro, they must have a bigger stake in it. They might have a shared history when it comes to the struggle for self-determination in Mindanao, but they have a heavier burden to bear. They are essentially a minority within a minority. Many indigenous groups have their own sets of traditions and their separate desire for self-governance independent of the Bangsamoro independence struggle. There is no one ancestral domain in the Bangsamoro, but rather the Lumads have their own struggle to protect their own ancestral domain. Although they might be part of the larger Bangsamoro identity, they still hold on to their own tradition and history within the framework of the larger Bangsamoro historical narrative.

### **Recommendations**

Moro identity proves to be a complex set of ideas with no one single unified definition, rooted both in the historical struggles faced until today and the contemporary economic and political challenges the people of Bangsamoro feel they face now. Elements of struggle are multidimensional, with Moro identity tying into land and sovereignty issues,

---

<sup>2</sup> “The indigenous people of Mindanao.” Accessed 4 February 2014.  
<http://www.philippines.hvu.nl/mindanao2.htm>.

political marginalization, economic marginalization and hopelessness arising from being a minority under a majority regime. With the transition into the implementation phase of the Comprehensive Agreement on the Bangsamoro including its Annexes, there is more talk of this larger “Bangsamoro identity.” To what extent this is a genuine discussion on the necessity of including non-Moro tribes in this new entity remains to be seen. Declarations have been made by the Bangsamoro Transition Commission and the MILF on the need of the Bangsamoro to be inclusive of the Christian, indigenous and other minorities, with even a specific clause pertaining to this inclusivity being placed in the FAB. However this is the time to begin taking actual measures to include these groups into the formation of this new identity. Going forward there are several steps that need to be taken:

- **Increased measures towards general inclusivity:** Further clarifications – along the lines of Section 1, Clause 5 of the FAB – need to be made on the definition of the Bangsamoro identity when drafting the Basic Law in order to avoid future challenges regarding exclusion of certain groups. Also all parties to the agreement need to assure the inclusion of the marginalized groups in order to guarantee that they support the peace process.
- **The government of the Philippines needs to further acknowledge the Bangsamoro struggle for self-determination.** The right to self-determination is at the core of the Bangsamoro struggle. The government of the Philippines needs to acknowledge that and understand that, although the Moro people have accepted being an autonomous region under the Republic of the Philippines, they have not eliminated, in the minds of many, the idea of complete independence. When the struggle for self-determination is so intertwined with one’s identity it cannot be forgotten easily. Recognition from the GPH regarding this fundamental characteristic of the struggle can further legitimize the peace process.
- **The economic marginalization of non-Muslim groups within Mindanao must be addressed.** As has been shown by the over forty years of conflict, economic and political marginalization can become a big part of one’s identity and a further driver of conflict. The Muslim majority in Mindanao have continuously felt that they are a marginalized minority within the Philippines, leading them to fight for

their economic and political rights. By that same token they must remember not to marginalize the minority groups within Muslim Mindanao now, whom they claim belong to the larger Bangsamoro identity.

- **The MILF needs to play a bigger role in cementing a broader identity if they expect the minorities within Mindanao to embrace the Comprehensive Peace Agreement.** Although the MILF has stated that the Bangsamoro identity is inclusive of all native inhabitants including the Christians and indigenous people, it has also voiced support of moving towards a society that is governed at least partially by principles of shari'a law. They have stated that this would only apply to the Muslim population of the Bangsamoro, but they need to make sure to disseminate this information and be transparent in their intentions. The MILF, or any other Muslim party that is in power, must take into careful consideration the place of non-Muslim groups within the new Bangsamoro that they envision.
- **When drafting the Bangsamoro Basic Law the governing powers must consider both the contents of the Indigenous Peoples Rights Act (IPRA) and the needs of the local indigenous people within the Bangsamoro.** The IPRA, adopted in 1997, primarily aims at protecting the rights of the indigenous people within the Philippines. It is necessary to create provisions that discuss the rights of the indigenous people, the welfare systems in place for them and steps towards the resolution of ongoing land issues.
- **Through its leadership position the MILF should work to integrate other Muslim Moro factions into the peace process.** The MILF is currently in a position of power. It should use this position to build cohesion not only with the minorities in the Bangsamoro but also with other Muslim groups. Despite low-level talks between the MILF and the Moro National Liberation Front (MNLF), there has not been large scale integration of the different MNLF factions into the process. Despite Nur Misuari's refusal to engage in the process, he still remains one of the symbolic figures of the Moro struggle and hence his inclusion could prove beneficial. The MILF has an opportunity to rebuild a more unified community that can ultimately only work to the benefit of both, preserving the potential future MILF rule and giving legitimacy to the process as a whole.

- **Give a larger role to civil society members and non-Muslim religious leaders to be positive agents of change within the larger community.** These religious leaders and members of civil society are often respected members of the community who not only bring with them legitimacy for the process, but also will allow the people to feel they have a stake in this new Bangsamoro entity.
- **The future Bangsamoro government must have high on its agenda the resolution of land disputes that is at the core of much of the internal conflict in Mindanao.**

It remains a challenge to determine what the Moro identity is truly composed of. With the signing of the Comprehensive Agreement on the Bangsamoro comes a new chapter of the story. Yet to be determined is whether the Bangsamoro identity can stay united due to the common historical struggles the people have faced in the region, or whether it will prove divisive on religious lines. The birth of the new Bangsamoro entity will test the durability of the Moro identity and reveal the true foundations it is built on.



# **Muslim Identity in the Peace Process and Bangsamoro Governance**

**Léonie Evers**

The MILF split from the Moro National Liberation Front (MNLF) in 1981 and claimed a distinct Islamic identity to, in their view, truly represent the majority-Muslim Moros in Mindanao. Under the leadership of first Hashim Salamat and now Al Haj Murad Ibrahim, the group is today the most important and strongest Moro rebel group in the Southern Philippines in terms of legitimacy. This legitimacy and power is exemplified by the MILF's ability to enter into peace negotiations with the central government of the Philippines (GPH) in order to negotiate an agreement set to replace the Final Peace Accord signed by the GPH and the MNLF in 1996.

While the MNLF represented a secular rebel movement, the MILF is, by name, an Islamic movement built on the Moro's Muslim identity as opposed to the Christian identity of the majority of the Philippine population. How does the MILF work to include questions of Muslim identity and culture into the peace agreement with the GPH? What type of Muslim elements are sought to be included in the agreement and how does the GPH respond to such demands? Are certain issues particularly contentious? And if so, which?

This chapter analyzes the role of Muslim identity for the MILF and its translation into both the peace process with the GPH as well as into policies likely to be implemented under the new Bangsamoro. To do so, on the one hand, I look at concrete policy measures and issues included in the Framework Peace Agreement (FPA) and its Annexes. On the other hand, I use discourse analysis to identify Islamic rhetoric and themes in the MILF's communications. I also analyze distinct practices in the MILF's political or social engagement reflecting its Muslim values.

## **Islamic Policy Measures**

### *Shari'a Law*

The Bangsamoro Transition Commission (BTC), composed of Moro representatives appointed by the GPH and MILF, respectively, is in charge of drafting the so-called Basic Law (BBL), which will come to be at the basis of the new Bangsamoro's political existence. Reflecting the MILF's Islamic identity, the Basic Law will "provide for justice institutions in the Bangsamoro," including "the competence over the shari'a justice system" (FPA, Part III, Art. 3). Indeed, the BTC has agreed upon the expansion of the already existent shari'a court system and the scope of its jurisdiction. The administrative competence to regulate shari'a law within the Bangsamoro territory will fall to the Bangsamoro government.

The FPA specifies that Islamic law will be supreme, but "its application shall only be to Muslims" (ibid.). When asked whether Supreme Court rulings at the national level would supersede decisions of shari'a courts in the Bangsamoro, a BTC member replied somewhat inconclusively that "shari'a [was] supreme for Muslims," basing himself on the relevant FPA article. This interpretation is worrying, since it would mean that no secular appeal mechanism at the national level would be at the disposition of Muslims under Bangsamoro jurisdiction meaning total legal reclusion from the Philippine state and legal insecurity for the Muslim population living under Bangsamoro law.

The Chief Negotiator for the GPH, Prof. Miriam Coronel-Ferrer, however, contended that a constitutional requirement places all courts under the supervision of the Philippine Supreme Court. Moreover, she explained that the expansion of shari'a law agreed upon in the FPA included the possibility to create an appellate system within the Bangsamoro (SAIS group meeting, 21 January 2014). The BTC's extreme interpretation of shari'a supremacy for all Muslims is also not reflected in the discourse of the Chairman of the MILF, Al Haj Murad Ibrahim. According to him, the expansion of shari'a law does not mean "full implementation," its scope being limited by the national constitution. Both the introduction of shari'a appeals courts within the Bangsamoro as well as the guarantee that Bangsamoro Muslims retain access to the Philippine Supreme Court would provide legal security to Muslims of the Bangsamoro. These legal safeguards are, however, not explicitly provided for in the FPA. Whether they will be in



the Basic Law is unclear, considering the BTC's reluctance to clarify Supreme Court supremacy.

Answering a question as to future plans to introduce shari'a criminal law in the Bangsamoro, Chairman Al Haj Murad Ibrahim simply replied that civil courts would be available (SAIS group meeting, 18 January 2014). However, he did not specify whether these would be accessible to Muslims in the event that shari'a criminal law was indeed introduced or whether they would be available because the MILF does not plan on introducing shari'a criminal law.

These questions and uncertainties with regard to the scope and the status of shari'a law within the Bangsamoro lead to a larger question of choice: will Muslims be forced to be under shari'a jurisdiction or may they choose between shari'a courts and civil courts? This question is important, not only with regard to criminal law. It also touches upon the larger question of equality between Christians, Muslims and indigenous people, as well as to freedom of choice to be tried according to a secular system if one so chooses. The FPA guarantees the "right to freedom and expression of religion and belief" (Part VI, Art. 1.b.), which Zen Malang from the Mindanao Human Rights Action Center (MinHRAC) explained to be, in Philippine jurisprudence, equivalent to guaranteeing the right to freedom to practice one's religion. This freedom should implicitly include the freedom not to practice any religion at all. If this freedom is guaranteed, any Moro that would be considered Muslim but chooses not to live by the religion's rules should be allowed to be tried before a secular court.

Generally, shari'a law is already recognized at the national level and is regulated by the Muslim Code on Personal and Family Law, which excludes shari'a criminal law. MinHRAC observers believe it is possible that the MILF might seek to introduce criminal law, considering that it is already engaging in prosecution through district shari'a courts as well as its Board of Military Discipline and dispute settlement at community level (SAIS group meeting, 20 January 2014). The introduction of shari'a criminal law in the Bangsamoro would then be a way to formalize its existence. However, the MILF's application of shari'a is not regarded as strict. Malang explained the liberal practice of Islam in the Philippines as stemming from Malay influences and practice of the religion. Malay Islam was seen to be rather tolerant, particularly with

regard to the role of women, Malay women being seen to be rather outspoken and assertive – features that can also be observed among Moro women (MinHRAC, SAIS group meeting, 20 January 2014).

Contradicting MinHRAC’s assessment that criminal law might be introduced, Prof. Coronel-Ferrer considered the possibilities of an expansion of shari’a to areas such as criminal laws to be legally limited. She explained that such an expansion would have to be covered by the national Muslim Code or be included in the Basic Law, the latter of which she deemed “unlikely” – possibly hinting at the GPH’s intentions to prevent such an inclusion in its negotiations with the MILF.

As it is, both the chief negotiator for the GPH as well as the Chairman of the MILF acknowledge and take into account the limiting powers of the national constitution with regards to an expansion of shari’a law into criminal jurisprudence. However, the MILF is known to be considering the idea of seeking constitutional amendments. While this possibility has not been mentioned in the specific area of shari’a jurisprudence by either side, it remains an option that could be tried even in the long term, once the MILF has been elected into power in the 2016 elections constituting the Bangsamoro Government. However, every constitutional amendment must be submitted to a national plebiscite and requires a majority to be accepted. It is hence doubtful that a measure seeking to expand shari’a law into criminal jurisprudence would pass at the national level considering the minority status of Muslims in the Philippines. On the contrary, such a measure might jeopardize other issues for which the MILF believes it necessary to seek a constitutional amendment, such as the implementation of the FPA (Wahab, SAIS group meeting, 22 January 2014).

### *Islamic Institutions and Other Bodies*

In addition to granting the Bangsamoro Government competence over the shari’a justice system, the FPA also provides for the Basic Law to confer upon it the power to “accredit halal-certifying bodies in the Bangsamoro” (Part III, Art. 4). Moreover, exclusive powers are given to the autonomous region’s government in the fields of education, culture and language, as well as to regulate and maintain both a *hisbah* office and *awqaf* or charitable trusts (Annex on Power-Sharing, Part 3, III, Arts. 18, 21, 47, 48). These powers not only

provide the Bangsamoro Government with substantial room for self-administration and hence reflect their quest for autonomy. They also provide it autonomy in areas specific to Islam and hence important potential room for future islamization. In Islam, *hisbah* offices are charged with the oversight of adherence to Islamic rules and practices. In this function, they could easily be instrumentalized to enforce radicalization, as has been the case for example in Northern Nigeria with *hisbah* offices turning into religious police, controlling social relationships (Lubeck, 2013).

### **Islamic Discourse, Values and Practice**

Some attributes of the MILF discourse distinctly reflect Islamic identity. While this might appear benign, it can have an alienating effect on secular or non-Muslim dialogue partners. Moreover, they are constant reminders of the MILF's identity and pledge to fight for Muslim autonomy in Mindanao.

First, and most general, the MILF is, as an Islamic organization, mainly funded through *zakat*, the traditional Muslim tithe that is one of the five pillars or duties of Muslim life. Building upon its image as an Islamic organization to garner financial support, it creates, on the one hand, a high level of dependency upon its constituency for financing and, on the other hand, a high level of community embeddedness.

According to the Centre for Humanitarian Dialogue (HD Centre), the MILF accepted the application of International Human Rights and Humanitarian Laws based upon their understanding of the Qur'an. This is an example showing how Islamic discourse is not only used by the MILF or other Muslim representatives when negotiating with the GPH. Rather, as was suggested by Ali Saleem from the HD Centre, it is being appropriated by mediating bodies part of the International Contact Group (ICG) such as the HD Centre to convince some Islamic hardliners of the peace process' benefits. To do so, the benefits to be attained by the peace process and the values embodied by them are being explained and in some way justified as being Islamic through the targeted use of Qur'anic references (SAIS group meeting, 16 January 2014). While this adherence and reliance of Islamic thought and values opens up common ground for agreement in the peace process, this same adherence can also lead to exclusion in other contexts.

Indeed, the Bangsamoro Leadership and Management Institute's (BLMI) work in human resources development for the Bangsamoro is explicitly based on the institute's adherence to Islamic values as stipulated by Qur'an and hadith (SAIS group meeting, 17 January 2014). How inclusive can an organization built on explicitly Islamic values be? Notwithstanding their principles' values, the Institute's Islamic value foundation may bear the danger of alienating non-Muslims from seeking to participate in the BLMI's training activities. Moreover, it could also exclude Muslims, specifically women. Indeed, according to the Asia Foundation's Steven Rood, the MILF believes in the "authoritative legitimacy of men" (SAIS group meeting, 15 January 2014). Not only might women be excluded from leadership and management trainings, but how does this belief combine with the explicit equality and quota for women agreed upon in the FPA for the Bangsamoro Government (Annex on Power Sharing, Part Two)?

The Bangsamoro Development Agency (BDA), on the other hand, insists on the religious affiliation of communities being irrelevant to their being targeted by the BDA for development projects. They also confirmed the responsiveness of non-Muslim communities to their initiatives (SAIS group meeting, 17 January 2014). They do, however, also explicitly mention the importance of Islamic values to their organization for one of their programs, the Values Transformation Training (VTT). In their flyer, it is described as aiming at "establishing a pool of BDA catalysts with enhanced knowledge, appreciation and practice of Islamic values that will help them in serving the most marginalized and indigent communities in Mindanao." Moreover, piety is stated as one of their 8 "core values," again referring to the BDA's respect of religious values, albeit without specifying of which religion (BDA, n.d.).

Lastly, some aspects of the MILF's discourse were reminiscent of radical Islamist language as used by, for example, Salafi extremist groups. Indeed, Chairman Al Haj Murad Ibrahim explained the need for a gradual, as opposed to abrupt, introduction of Islamic law to ensure its acceptance by the people. This is a strategy also pursued by al-Qaeda in the Maghreb to secure support and acceptance by targeted communities in order to gradually introduce radical shari'a subsequently. Although this may not be the MILF's strategy, this example shows that a gradual introduction of shari'a law does not exclude future radicalization. An outside monitoring of legal developments in the Bangsamoro

should hence be insured. Moreover, a BLMI official used the term *mujahideen* to speak of MILF fighters (SAIS group meeting, 17 January 2014). While it is both true that *jihād* merely means fight, whether armed or internal and spiritual, and that the MILF is an armed group relying on fighters, the use of the term *mujahideen* does have particular, extreme, connotations, specifically among Western observers. Using these terms, then, might jeopardize the MILF's intentions of establishing itself as a political organization seeking to lead the autonomous region of the Bangsamoro. At the same time, it must be taken into account that the term *mujahideen* was used by only one Moro representative and it can hence not be established whether this reflects general MILF discourse. Moreover, the implied meaning cannot be determined with certitude and might merely refer to (armed) fighter or combatant, rather than fighter in a holy war.

As has been shown above, the MILF's identity as the Islamic representative of the Moro people permeates throughout its discourse and the policies the organization seeks to include in the peace agreement with the GPH. While it makes sense that the Moros' distinct Muslim identity, as opposed to the Filipino Christian majority, would be the driver of many issues on the MILF agenda, indeed on the agenda of any rebel group seeking to represent the Moro people, this distinctiveness and attempt to set the Moros apart from other groups within the Philippines, while at the same time reassuringly guarantee inclusiveness, seems rather weakly thought through, specifically in its consequences for political and legal coexistence with the GPH. In the author's opinion, it bears the risk of encapsulating the Moro Muslims within their identity and to lose sight of other communities' needs living within the Bangsamoro, such as Christians and indigenous people. It could also create a breeding-ground for extremism if inclusiveness is not carefully attempted in every policy implemented. Here, then, are some recommendations to ensure inclusiveness within the Bangsamoro, as well as to emphasize the MILF's aims of creating an autonomous region for all natives of the Bangsamoro, whichever religion or ethnic group they might belong to.

## **Recommendations**

### **Short-term**

- **The MILF should promote inclusiveness of all people living within the**

**territory of the future Bangsamoro**, regardless of their religious affiliation, recognizing “those who at the time of conquest and colonization were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands [...], and their descendants” as Moros, congruent with the FPA, Part I, Art. 5. This includes Christians, since they would have been converted at the time of colonization, as has been confirmed by Chairman Al Haj Murad Ibrahim of the MILF. In this respect, **the FPA’s Annex on Power-Sharing should specifically include Christians as a group in the enumeration of non-Muslim groups** of which “the Bangsamoro assembly shall be representative of” (FPA, Annex on Power-Sharing, Part Two, Art. 2).

- **The MILF should encourage dialogue between members of the Muslim religious community, such as ulama and imams, and members of Christian and indigenous minority groups within the territory of the future Bangsamoro** in order to foster cooperation and networks. To do so, **the MILF should build on its grassroots-level network** with the aim of expanding it across denominations and communities. This can also help to preclude potential attempts from Muslim states to take influence in the Bangsamoro and potentially creating dependency – a pitfall the MNLF has fallen into.
- **The MILF should publicly recognize the judicial supremacy of the Philippine Supreme Court and its supersession over the local shari’a judicial system**, as well as ensure the retention of legal pluralism within the Bangsamoro.
- **The MILF and GPH should ask the HD Centre to engage in the Bangsamoro as mediator** between feuding clans and/or Bangsamoro government and reticent communities including private armed forces and splinter groups such as the BIFF (Bangsamoro Islamic Freedom Fighters). The HD Centre’s mediation work could be modeled upon the track III mediation work the Centre is engaged in on Sulu upon invitation by the MNLF. This might also involve bringing children from Muslim, Christian and indigenous communities within the Bangsamoro together in an effort to foster understanding and cooperation.
- In the wake of the signature of the Comprehensive Peace Agreement (CPA) and during the transition period leading up to the 2016 elections of the Bangsamoro

Government, **the International Monitoring Team (IMT) should institutionalize its currently ad hoc liaison and cooperation with local religious leaders**, both Christian and Muslim, as well as with indigenous leaders in order **to better monitor and prevent possible eruptions of violence and factionalism** that could jeopardize the holding of elections.

#### Medium-term

- **The MILF should strive towards establishing itself as a political party representing all Moros** as defined in the FPA, Part I, Art. 5, regardless of religious affiliation in order to gain trust and legitimacy with all inhabitants of the Bangsamoro, ahead of the 2015 plebiscite and the 2016 elections in which the Bangsamoro Government will be voted into office for the first time.
- **The MILF and the BTC should cooperate with local imams and ulama to monitor the growing influence of Muslim extremists and the spread of Salafism and Wahhabism in Mindanao** (HD Centre, SAIS group meeting, 16 January 2014) that could potentially undermine the inclusive character of the Bangsamoro in the event that these groups manage to gather enough political clout to win the 2016 elections. This would also address fears specifically voiced by the Christian community worried about its future within the Bangsamoro and at the same time surely enjoy the latter's backing, since it has already expressed its support for the Muslim majority to govern if the rights of minorities, such as, but not limited to Christians, are not impeded upon (Quevedo, SAIS group meeting, 18 January 2014).
- **The MILF should continue its cooperation with the GPH and the Armed Forces of the Philippines (AFP) to fight against Islamist rebel groups** such as Khilafa Islamiya Mindanao (KIM) or Jemaah Islamiyah (allegedly) allied to al-Qaeda (Banlaoi, SAIS group meeting, 16 January 2014).
- The parties to the conflict, that is, **the MILF and the GPH, should jointly reach out to the international donor community to ensure financing and thus the continuation of monitoring by local monitoring teams**, such as MinHRAC to ensure proper implementation of any Final Peace Agreement reached.

- **The BLMi should move away from explicitly transmitting values labeled as Muslim in the leadership and management trainings it offers.** As an official Bangsamoro Government institution **it should remain neutral** so as to address non-Muslim communities in the Bangsamoro as well. Indeed, especially the Christian population in Cotabato City is economically important for the Bangsamoro and should hence also be able to benefit from trainings without the risk of feeling marginalized by the BLMi's adherence to Muslim values.

#### Long-term

- **The Bangsamoro Government should introduce shari'a appeals courts** as made possible by the provision to expand the shari'a court system in the FPA, Part III, Art. 5.a.
- **Shari'a judges serving in these appeals courts should be trained in both shari'a AND Philippine national law to ensure conformity of decisions taken in the Bangsamoro to national law.**
- **The MILF should prepare itself to resist pressures from other rebel groups that might push for secession and/or the establishment of an islamic state** and multiply efforts to make the "alternative" of autonomy a success so that independence is not needed anymore to meet the organization's goals of "complete freedom" (Al Haj Murad Ibrahim, SAIS group meeting, 18 January 2014). At the same time, the GPH should carry out extensive campaigns to educate the entire Filipino population about minority groups such as the Moros and openly recognize their self-identification as Moros. That way, the "difference between identity and citizenship" (Naguib Sinarimbo, SAIS group meeting, 18 January 2014) will be made clear and disseminated top-down and not only give the Moro population greater confidence as a minority group but also reduce its urge to seek independence because of a lack of recognition of their identity.



# **Identity Politics: The MNLF, the MILF, and What Their Differences Mean for the Transition**

**Constance Wilhelm**

On 25 January 2014, the final Annex to the Framework Agreement on the Bangsamoro was signed by the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). The signing of this peace and transition arrangement marks the culmination of a negotiation process that had lasted two years, and reflects a hopeful step toward the resolution of a conflict that has spanned more than four decades. The Bangsamoro Basic Law (BBL) that has been drafted as a result of the Agreement remains to be passed by Congress, signed by the President, and then ratified by plebiscite as Mindanaoan localities determine whether they wish to become part of the Bangsamoro, all while surviving any potential Supreme Court contests. Despite these remaining challenges, the Philippines seem poised to establish the BBL as law, paving the way for a semi-autonomous government to be established across most of Mindanao, the largest island in the southern Philippines, also including a few smaller islands nearby. Agreements signed in 1976, 1996, and 2008 all failed to resolve violence and stimulate reconciliation in the country. This new agreement, however, has the potential to be the decisive one for a specific reason beyond ripeness for resolution: i.e., the nature of the MILF.

The identity that the MILF has developed and cultivated since its inception, both internally and externally, has three central implications that will impact the success of the peace process. First, the MILF is not the same as the Moro National Liberation Front (MNLF); and as it will not behave the same way, it should not be treated as the same. Second, the MILF has vocally maintained a desire for full independence; this is part of its identity, and is also a caution with regard to its position should the BBL fail. Third, the MILF places a premium on maintaining grassroots support, which gives it stronger chances of surviving intact during the transition from a revolutionary movement to a political organization. These implications, which will be explained in greater depth below, factor into the chances for successful long-term resolution of the conflict,

particularly if the GPH takes them into account with regard to the implementation of the peace agreement.

### **Implications**

Whether by accident or design, the MILF has managed to distinguish itself significantly from its predecessor and contemporary, the MNLF. The MILF largely sprang out of the sentiment that the MNLF had made too many concessions, or that the Moro cause had not been adequately served, in the 1976 and 1996 peace agreements between the MNLF and the GPH. Although the agreements themselves have strongly resembled each other, including those of 2008 and of 2014, the actors on the government side have changed significantly since 1976. Marcos' brutal dictatorship, under which the 1976 agreement was reached, was replaced by the democratic leadership of Corazon Aquino, and then by Marcos' cousin and revolutionary hero, Fidel Ramos, who signed the 1996 agreement. And now, years later, with "Teflon President" Benigno Aquino III in charge, the government is once again trying a different approach to the peace process in Mindanao. Beyond these leadership changes, however, the primary difference between previous failed agreements and the one that is in the process of realization is in the government's partner in peace, which this time is the MILF.

When it was founded in the late 1960s, the MNLF was the only organization of its kind, aiming to fight against the perceived unjust treatment of the Moro people by the government in Manila. Perhaps in part because it was the first, the MNLF found many supporters, both domestically and internationally, to provide it with resources as well as with political and ideological support. In particular, Muammar Qaddafi came to be the supporter-at-large of Nur Misuari's organization, providing it with financial support, arms, legitimacy, and international recognition through the Organization of Islamic Cooperation (OIC). Qaddafi's association with the MNLF allowed him to establish an external command-and-control structure for the MNLF, which itself thusly became appropriated as part of Qaddafi's pan-Arabism project. Moreover, OIC recognition would later help provide forward momentum for the peace process.

All of these elements had the result of creating not only a stronger MNLF with which the GPH was pressured to negotiate, but also an MNLF that some in Mindanao felt

was a group fighting more for the its own sake than for the Moro cause. This sentiment had an important implication: once the government had signed the peace agreement, there was no longer a role for the international community in the peace process, and so pressure on the government to implement the agreement was lifted – and the MNLF did not have the grassroots support to continue the fight for implementation on its own.

Additionally, it is possible that the MNLF's international backers, and perhaps even the MNLF itself, were not sensitive enough to the issues the group would have to address in its transition to a political organization – including exactly what it means to govern. Misuari in particular proved to be an inept governor, lacking political experience and succumbing to demands of nepotism from supporters and power-brokers in Mindanao. Misuari's weakness, alongside the general ineffectiveness of the government of the Autonomous Region of Muslim Mindanao (ARMM) – in particular in meeting Mindanaoan expectations of substantial and rapid economic amelioration – was a major factor in the popular disillusionment with the MNLF that followed. This disillusionment was further exacerbated by the MNLF's lack of tenacity when the government failed to follow up on certain elements of the agreements' implementation. The change in GPH leadership further complicated matters: although Ramos attempted to ensure implementation, Joseph Estrada replaced him as President shortly after the agreement was signed.<sup>3</sup> Estrada was hawkish and anti-Moro: he declared an “all out war” against the Moros, largely abandoning the 1996 agreement and displacing large numbers of Moros in Mindanao, although the Armed Forces of the Philippines (AFP) failed to crush the group completely. This change to anti-Moro leadership made the failure of the 1996 agreement essentially inevitable; and although current President Aquino is committed to the peace process, he too will be replaced in 2016. If the transition process is not well and stably underway at that point, the success of the peace process will be at great risk.

After they had been signed, and during the implementation phases, the MNLF argued that the commitments outlined in the 1976 and the 1996 agreements were not upheld. In fact, ARMM, the semi-autonomous government structure set up by the 1996 agreement became a “failed experiment.” The MNLF withdrew from ARMM once their

---

<sup>3</sup> Ramos's replacement was not a sign that he did not have the popular mandate to complete the peace deal, but was rather a result of the Philippine Constitution's one-term limit for Presidents.

governance efforts had failed, claiming that ARMM did not carry out the intentions of the original agreement. ARMM is now led by “traditional politicians,” or politicians that are either corrupt warlords or traditional clan leaders, all with strong ties to Manila. When the MNLF’s withdrawal from ARMM did not elicit a strong political response from the government nor from the local population, the MNLF resumed violence as a revolutionary group. The MNLF’s transition from a revolutionary to a political organization had been unsuccessful. This failure occurred despite international support and the government’s assertion that it had maintained its commitments in the peace process and that the transition process had simply failed.

The MILF as a group is different from the MNLF, and it will likely continue to perform its role in the peace process differently. Despite generally good relations between the MILF and the MNLF (the latter of which has now fractioned off into five different groups), the groups take different approaches to peace. This could be because of the nature of the conditions in the country when the MILF was formed; because of the MILF leadership; or because of the way the group cultivated its image and identity in Mindanao. Regardless, the MILF has two key differences from the MNLF: First, it has never abandoned its long-term ideological aim of full independence, or separatism, for the Bangsamoro. Second, instead of international support, it prides itself on grassroots support. Both of these points will be elaborated upon below, but they both ultimately emphasize the key idea of this text: the MILF has essential differences from the MNLF, and has learned in large part from the MNLF’s mistakes. As such, the GPH should not treat this new peace process as it has past ones, nor should it expect the same disappointing results from the MILF’s transition from a revolutionary to a political group as it saw with the MNLF.

Two factors that critically distinguish the MILF from the MNLF are its organizational independence, and its desire for complete separation from the Republic of the Philippines. The MILF’s organizational independence – i.e., that it does not have a command-and-control structure dependent on external power as the MNLF did with Qaddafi – means that the group has no external constraints to achieving its objectives. Unlike the MNLF, the MILF is not dependent on foreign support. From early on in its history, the MNLF came to the attention of the OIC, which formally recognized the group

in the 1970s and to this day supports the MNLF, under Misuari's leadership, as the primary representative of the Moro cause (despite currently facilitating talks between the MNLF and the MILF to promote reconciliation between the groups). One of the implications of its OIC support, however, is that – as supported by the OIC's founding principles, namely those of national sovereignty and territorial integrity – the OIC would not support the MNLF in a push for independence from the Philippine government.

This rejection of any separatist ambitions for the MNLF is largely why the GPH repeatedly accepted for the OIC to act as mediator, with Indonesia as arbiter in the 1976 process and Malaysia as arbiter in 1996. In return for ceding its desire for complete independence from the Philippines, the MNLF obtained international legitimacy and external support for its cause. Moreover, the GPH was pressured to negotiate with the MNLF when Qaddafi threatened to cut off OPEC oil – a crucial source of energy to the Philippines – if the OIC was not accepted as mediator. This allowed for the 1976 Tripoli Agreement and its 1996 follow-up to be signed.

Most likely because it disagreed with the MNLF's approach, but perhaps also because the spot for international recognition of a Moro rebel group was already taken, the MILF has managed to maintain strategic independence from the outset. The organization has had to develop its legitimacy and gather resources domestically, which has allowed it to substantially build up its grassroots support, and, what is more, to maintain the defining element of its self-identity: its desire for full independence for the Moro people. The MILF considers that the Moros had once been independent on Mindanao, before the American occupation of the Philippines, and that when the country was unified, the Moros became systematically marginalized and oppressed by the government. Consequently, independence is a Moro right. This belief has gained them local support; and so, their identity and support base have been largely built around the idea of self-governance for Mindanao.

Despite this point, the MILF has agreed to suspend its objective of independence in exchange for political and economic semi-autonomy (which it is calling “autonomy”), ceding to the recognition that it is negotiating from a position of asymmetric power with the government. However, the MILF has made it clear that should the agreement fail, it will have exhausted all diplomatic alternatives to achieve its objectives; it will have proof

that Moros cannot obtain full rights within the Philippine states, and so it will give up on the negotiations as a whole and return to its armed struggle for independence.

Regardless, even if the agreement is seen to be successful, there is no guarantee that the MILF would fully abandon its goal of independence in the longer term. As long as the group remains intact, its identifying feature will continue to be the Moro quest for independence. Some evidence of this point is that while the Framework Agreement deals in part with the Disarmament, Demobilization, and Reintegration (DDR) of MILF soldiers, the MILF has maintained that the normalization process will not be completed and arms not relinquished until the peace process has been concluded and the transition is underway. This reinforces the point that the GPH must actively support the successful conclusion of the peace process and of the transition in order to avoid more serious consequences.

In addition to centering its identity on its objective of independence, the MILF has also managed to gather a strong grassroots base amongst the Mindanaoan population, support that has been central to its growth as a group and to its campaigning during the peace process. This is another key distinguishing factor between the MILF and the MNLF. As stated above, the MNLF did not make a priority of maintaining domestic or grassroots support for its activities. This was in part due to the necessary trade-off between international support and legitimacy with domestic resourcing and support. The local population was never a strong part of the MNLF's decision-making system, despite Nur Misuari's very strong and continuing popularity in the region. However, Misuari's continuing idolization is a sign of the strength of belief behind the Moro cause, with the charismatic Misuari standing as a strong icon to mobilize support for the movement.

It is worth noting that continuing anger and resentment against the GPH on the part of most MNLF factions, based on their own failed peace processes, has been compounded by fact that the GPH is now almost solely dealing with the MILF. Although the GPH has recently undertaken some negotiations with various MNLF factions, Misuari's group in particular views the negotiations with the MILF to be illegitimate. Misuari considers only the 1996 agreement as binding, despite its being generally accepted as a failure.

This resentment could be in part to blame for the September 2013 attention-grabbing headlines in which some members of the MNLF-Misuari group (MNLF-MG) kidnapped local and foreign citizens and engaged in a brutal firefight against the AFP in Zamboanga City. Despite general support for Misuari, however, no group, not even the al-Qaeda linked Abu Sayyaf group, the Bangsamoro Islamic Freedom Fighters (BIFF), or any of the other MNLF factions, came to the support of the MNLF-MG in its activities. Furthermore, many in the local population were angered that Moro citizens were among those kidnapped, and that the group had caused further violence and instability in Zamboanga. The attacks confirmed the suspicions of many: that the MNLF was not ‘for the Moros,’ but rather ‘for the MNLF.’ The attacks therefore backfired, and further delegitimized the MNLF-MG’s support base, even causing a degree of alienation and isolation for the group relative to its other factions.

Once again, differences with the MILF are apparent. The MILF developed largely as a result of dissatisfaction with and disagreement over the 1976 Tripoli Agreement. In particular, from its inception in the 1980s, the group stressed that the agreement was insufficient to redress the injustices, including political, territorial, and economic marginalization, that had been carried out against the Moro people. Consequently, the MILF aimed to represent the needs and rights of the Moro cause as a whole. It is possible that the MILF worked so hard to develop grassroots support and legitimacy in part because it recognized the MNLF’s mistake of allowing itself to be externally governed. Local support came to be seen as absolutely necessary for the Moro movement to be successful.

Accordingly, at least since the beginning of the peace process, the MILF has defined itself as a revolutionary movement fighting for all the peoples of Mindanao, including not just the Moro Muslim population, but also the Christians, Lumad indigenous peoples, and any others willing to support the cause. In part, this redefinition has been possible because the MILF has agreed to limit its aim of separatism to semi-autonomy, in a sign of clear political pragmatism and perhaps also of a desire to stop fighting. This shifting of objectives has supported the MILF’s claim to be for all the people of Mindanao, and has legitimized any role it might have in a future Bangsamoro government.

The MILF has accordingly been making efforts to mobilize public support, despite skepticism among some of the Mindanaoan population either that the agreement will not be upheld, or that once in government the MILF will no longer try to represent the larger population. There has nonetheless seemingly been some willingness among the local population to give the MILF a chance to transform their words into political action.

However, at the same time, if the MILF feels that government efforts to implement the agreement in the coming months and years are insufficient, they may take recourse to seeking separatism violently once again. This risk is compounded by the question of whether the BBL will successfully pass through Congress and the Supreme Court, and if the president after President Aquino leaves office will be as supportive of the peace process as Aquino has been. To counter these risks, the GPH has been pushing for an extremely rapid transition period; but this push may also result in the failure of the transition, as the MILF may not be able to successfully complete the transition to a functional political party by 2016 (see chapter by Benjamin Merrill). The MILF has agreed to a short transition period due to similar concerns about leadership changes, but it is also worried that it may not be able to prove itself politically and economically to the Bangsamoro people in time for the new elections.

If the MILF does revert to its revolutionary activities, this fight would not resemble the one that the MNLF has taken up following what it calls the “failed implementation” of its 1976 and 1996 agreements, which resulted in the splintering of the group and in the gradual delegitimization of MNLF activities in Mindanao. When the MNLF’s agreements failed, a number of disgruntled and unsuccessfully demobilized former fighters joined Abu Sayyaf, or intensified violence within the ranks and through the activities of the different factions of the MNLF. When the 2008 Agreement between the MILF and GPH failed, some MILF fighters split off from the military arm of the MILF, the Bangsamoro Islamic Armed Forces (BIAF), and joined the Bangsamoro Islamic Freedom Fighters (BIFF), a violent separatist offshoot. With the possible failure of this 2014 agreement, which has been the primary focus of the MILF for the last years, the risk remains that disillusioned MILF fighters might join this or other violent “rogue



units”<sup>4</sup> that have continued the fight for independence from where the MILF left off when it began the peace process.

Members of the MILF’s BIAF have stated that despite their substantial number of well-trained and – organized troops, what they want most of all is to have the freedom to do other things – namely, to truly integrate into the economic system of the Philippines. Many have involved themselves with the MILF because the group has assured them livelihood and given them a cause, but this does not mean that they all want to be soldiers for life. And it is likely that, given the chance, the transition to peace will be a smooth one for many of these fighters.

However, there is also a likelihood that, should the agreement and transitional arrangement fail, due to disillusionment and the need for a livelihood, these fighters either form a new and more violent revolutionary group, or that they join the ranks of the BIFF, Abu Sayyaf, or others. It is also possible that the MILF itself would be able to mobilize the grassroots support it has gathered for the last years in order to take definitive steps against the Philippine government to pursue independence. Unlike the MNLF, the MILF most probably has the ability to make this dream a reality, and to mobilize the necessary force to take definitive action against the GPH in Mindanao – or at least, cause significant damage in the process.

Of course, the GPH may not think the stakes are this high. It has stated privately that the MILF will be solely responsible to figure out its own needs and priorities for the transition to a political group, independently of the government’s help. And given that the

---

<sup>4</sup> Existing armed opposition groups in the Philippines include: of the Communist Party and its splinter groups: the Communist Party of the Philippines and its New People’s Army, as well as Communist splinter groups including the Revolutionary Workers Party of the Philippines and its Revolutionary Proletarian Army – Alex Boncayao Brigade; the Filipino Workers Party and its Armed Partisans of Labor; the Marxist-Leninist Party of the Philippines and its Partisans Group; or the Marxist-Leninist Party of the Philippines and its Revolutionary People’s Army; the Cordillera People’s Liberation Army. Additional groups include the MNLF and its three to five splinter groups; the Bangsamoro Armed Forces, associated with the MNLF; the MILF and its Bangsamoro Islamic Armed Forces; the Abu Sayyaf Group; the Moro Army Committee; the Khilafa Islamiyah; the Awliya Group of Freedom Fighters; the Rajah Solaiman Movement; the Pentagon Gang and other smaller Moro Armed Groups including Abu Sofia, the Al-Khobar Gang; the Indigenous People’s Federal Army and other Lumad Armed Groups including the Bungkatol Liberation Army; Jemaah Islamiyah and other Indonesian/Malaysian Jihadi Groups with a small presence in the Philippines.

government is allied with key power-brokers and traditional politicians in the South, many of whom are in positions of power in various cities, the government may feel even less pressure to assist the MILF through the transition process. There is also a chance that even if the transition succeeds, the MILF will not obtain enough votes to run the new Bangsamoro government. Moreover, the government has expended substantial resources over the last decades in addressing the Moro issue, and some officials may not want to make the transition too easy for a group that was only a few years ago engaged in violent anti-government activities.

However, letting these attitudes and facts prevail would be a mistake. It would also be a mistake to consider that the MILF is simply a new version of the MNLF, and so that even if the agreement succeeds, the MILF will not be able to transition successfully to a political group; or that if it fails, the repercussions would not be that great for the Philippines. As has been stated throughout this chapter, the MILF has grassroots support, it has expanded its cause to the greater Bangsamoro community, and it has learned from the mistakes of its predecessor and has already begun serious planning for the transition and governance process. Moreover, it has a contingency plan of seeking independence, most likely violently, should it fail to obtain autonomy for its people – or, potentially, should it fail to obtain a substantial role in the new government in Mindanao. The MILF is a serious revolutionary group, and if the Philippines want peace, the MILF must be treated accordingly.

### **Policy Recommendations**

- The MILF's grassroots support and popularity, its redefinition as a party 'for the people' of the Bangsamoro, and its long-term aim of independence are defining characteristics of the MILF that in turn carry important implications for the government of the Philippines. **The government should not consider the MILF to be the same as the MNLF, and it should not treat the groups in the same way**, lest it be forced to deal with an outcome to a failed 2014 peace agreement that will be far more damaging or destabilizing than what it faced when Misuari left the ARMM. Despite their differences, however, lessons learned from the peace process with the MNLF also cannot be ignored. The coming months will be

critical ones for the future of Mindanao, as the Bangsamoro Basic Law should be passed and the first steps of the implementation of the agreement taken up.

- It is in the best interest of the **Government of the Philippines** to make a concerted effort to **pass the Framework Agreement and the Bangsamoro Basic Law through Congress, and to strengthen the language of the agreement to ensure its unscathed passage through the Supreme Court.** The problems of the 2008 Agreement must not be repeated. The GPH must work toward the full implementation of the Agreement and of the BBL.
- **The Government should provide the MILF with technical and legal assistance in its transition to a political party** once the BBL is passed. It should do so in advance of the elections that according to most experts will take place in a time span too short for the MILF to organize itself and learn to govern adequately. **It is in the interest of the Government to assist the MILF in the transition** so that, even if the MILF does not gain a majority vote in the elections, it will still be able to recognize that the GPH made a real effort to assist the group. In this case, it will be less likely that the MILF will feel that it have been treated unjustly by the GPH, and so it will be less tempted to abandon the agreement and resort to violent and destabilizing action. Moreover, the GPH does not want to risk that a new incoming government in 2016 might destroy any progress in the peace process should the transition not yet be stable or complete; this conflict deserves a resolution.
- In particular, the GPH might provide technical training on governance, rule of law, anti-corruption measures, project and budget management, and perhaps even on basic finance, economics, and law. The **GPH should also provide substantial support in promulgating the Agreement and arranging the plebiscite, as well as assist in elections organization and monitoring once the transition period is nearing an end.** A good model for these efforts could be government engagement with the Irish Republican Army (IRA) in Northern Ireland, and the Basque Country in Spain. The MILF is capable of a credible threat to fight for independence, which is not in the GPH's interest, so the GPH should assist the MILF in the transition.

- The **international community may also consider providing the MILF with technical assistance.** NGOs such as the Asia Foundation and the Centre for Humanitarian Dialogue have already been undertaking some work to this end in an effort to facilitate the transition process.
- Finally, the **MILF should communicate more clearly with the GPH regarding its plans for the transition.** This will give the GPH more of an opportunity to assist the MILF, which would be of essential use given its incomparable experience with Philippine governance, development, and economics. It would be a sign of good faith to the GPH for the MILF to open this route of communication, which to date has remained fairly closed. To this end, the MILF might consider engaging in more dialogues with the GPH, and encouraging the provision of assistance to the new Bangsamoro government, especially as regards technical, legal, and elections assistance. If these points are adhered to, the possibility for a peaceable transition and a conclusion to this longstanding conflict may be realized.

# Ancestral Domain, Cyclical Displacement, Resources and the Peace Process in Mindanao

Reneé Wynveen

*“Dreams are our only geography – our native land.” Dejan Stojanovic*



Figure 1: Wynveen 2014

The reason behind the Bangsamoro struggle, according to the Philippine Council for Islam and Democracy (PCID), is “loss of land and loss of sovereignty” (Rasul, SAIS group meeting, 16 January 2014). While a recent agreement between the MILF and the GPH provides hope that decades of conflict is near its end, compliance with the agreement is much more complex. The implementation of sustainable peace is made

especially challenging by cyclical displacement, the various parties to the conflict, natural resources, and complications associated with access to land.<sup>5</sup>

Islam in Southeast Asia in the thirteenth century was a way of solidifying material gains, geopolitical power, and spiritual control. The first Filipino Islamic sultanate was established on the island of Sulu, when Sayyid Abu Bakr fled Indonesia in 1450. The rulers solidified their rule through these forms of power: material possessions, Islam, and intermarriage with the majority Tausug (Abinales 2005). To this very day, the sultanate of Sulu and the historical legacy of Islam in Mindanao is a central claim of the Bangsamoro struggle. While centuries of Spanish colonial rule established Christianity as the major religion of the country, the conflict has taken on a religious dimension. Nevertheless, the major issue in the conflict is about access to land and resources.

Mindanao has long been a destination of migrants from the northern part of the country. After Philippine independence in the aftermath of World War II, the government sought ways to move more of their population to abundant land and resources in Mindanao. In the 1950s, there were several lackluster attempts to stimulate migration to Mindanao that did not function very successfully. Nevertheless, the 1960s saw massive unregulated and orderly migration to Mindanao because of the timber industry (Abinales 2012). The government welcomed this development, but it also changed the nature of politics in the area. Politicians now had to expand their connections beyond their traditional districts and reach out to those who had settled in the countryside. At the same time, the government's aspirations for stability were short-lived because the rate of growth in Mindanao's electoral districts was soon overshadowed by the tensions that new settlements created among other communities such as the Muslims. President Ferdinand Marcos took these electoral politics one-step further when he expanded the power of the national state in Mindanao. While his strategy was to delegitimize the authority of his rivals and opponents, this move in fact instigated ethnic and religious violence and the eventual creation of the MNLF (Abinales 2012).

---

<sup>5</sup> A huge thank you to all the people who provided us information while in Manila and Mindanao, most especially to Michelle Sanson who provided some insight into the humanitarian and disaster problems at the backdrop of the conflict.

Another group impacted by migration and the conflict is the indigenous people. The 1997 Indigenous Peoples' Rights Act (IPRA) establishes the concept of ancestral domain. It provides for indigenous peoples' rights to control entry of migrants into this territory, to assure safe and clean water and the rights to it, and to resolve land conflicts. Upon visiting the region, there was significant indication that years of conflict had undermined confidence in the protective forces of this act. The government has voiced its concern for the security of indigenous people in Mindanao under a potential Bangsamoro political entity. One criticism at the time of implementation was that it facilitated foreign companies' access to these lands. The Mining Act of 1995, however, does stipulate that any use of ancestral domain for mining or other use by foreign companies must have the consent of the indigenous groups living on the land. The International Displacement Monitoring Centre conducted a survey of the Lumad people, the largest ethnic minority settled in Mindanao. 37% of those surveyed agreed that Certificates of Ancestral Domain provided them with sufficient protection. Nevertheless, 21% disagreed with this statement and 42% expressed that they didn't have a well-informed opinion. 53% of the respondents said that they were not aware of whether the government and the National Commission on Indigenous Peoples (NCIP) programs were making a difference in protecting their lands. Respondents also showed a lack of awareness about the specific provisions and rights provided in ancestral domain (IDMC 2013). The terminology of "ancestral domain" is of course fraught with complications, as the Islamic peoples of Mindanao also claim that their ancestors have lived on the island since time immemorial.

The question raised frequently by our interlocutors was "Who and which party does have the right to ancestral domain?" In the Framework Agreement on the Bangsamoro (FAB), the Bangsamoro Basic Law should attempt to deal with the issue of competing claims to ancestral domain by providing for several ancestral domains amongst the Bangsamoro. While the FAB defines Bangsamoro as the original inhabitants of Mindanao, Sulu, and Palawan, it accepts the Indigenous Persons right to choose whether they will be associated with this term. The lack of a common identity in the Bangsamoro poses a risk to governance.

## **Cyclical Displacement**

Humanitarian workers in Mindanao describe the people living in disaster-prone and conflict-ridden areas as “cyclically displaced.” The prevalence of conflicts and natural disasters forces them to relocate multiple times. During the period from August 2008 until early 2009, there were roughly 750,000 persons displaced in Lanao del Norte, Lanao del Sur, Maguidanao, and Cotabato City. Roughly two thirds of the population was able to return home, but they found that their lands had been destroyed and livestock had been stolen. In 2013, the International Federation of the Red Cross and the Red Crescent conducted an assessment for the Global Shelter Cluster where they found that a majority of those displaced by Typhoon Bopha are living in informal land arrangements. Many of those surveyed lacked documentation to prove that they had a legal residence prior to the typhoon. These informal settlements along with the fact that ancestral domain lands are geographically scattered complicates resettlement and the struggle for peace. The map below demonstrates this phenomenon.

The Zamboanga conflict in September of 2013 was a demonstration that the MNLF is dissatisfied with autonomous governance and continues to desire an independent state in Mindanao. When the Royal Army of Sulu, a Philippine clan, staged an armed conflict to reclaim their ancestral home in Sabah, Malaysia, roughly 20,000 people relocated to Basilan, Sulu, and Tawi-Tawi (OCHA 2013). These incidents put tremendous pressure and additional expense in terms of good governance in the area. Further conflict affected the region in the same week that the MILF and the Government reached a peace agreement in Kuala Lumpur. By launching an offensive on the Bangsamoro Islamic Freedom Fighters (BIFF), the government hoped to facilitate the transition by removing any potential opposition. The operation forced the evacuation of 35,000 people from Datu Piang, Shariff Saidona, Mamasapano, and North Cotabato (Romero 2014).

The region’s vulnerability to disasters and the impacts of climate change is a factor in this cyclical displacement. Typhoons, earthquakes, and flooding that have resulted in displacement have exacerbated the lack of confidence between the various populations living in Mindanao and have augmented the misunderstandings with respect to ancestral claims. The population continues to experience the negative consequences of



2012's Typhoon Bopha, with development programming still assisting the victims of this disaster.

The Government has taken measures to respond to the phenomenon of natural disasters in the form of "No Build Zones." These "No Build Zones" confound existing Natural Disaster Management risk planning. In 1951, the Water Code of the Philippines was signed into Presidential Decree No. 1067. Article 51 of the stipulation declares,

"The banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas along their margins are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing, and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind."

Additionally, the Department of Environment and Natural Resources has mandated city governments to specify No Build Zones, High-Risk Zones, Medium-Risk Zones, and Low-Risk Zones.

The identification of these areas provides very little clarification of impending danger, and they rarely correspond with human settlement patterns. The Philippines' Mining and Geo-Sciences Bureau must justify their declaration of a 40-meter coastal no build zone (Kelley 2013). They must specify whether that corresponds to actual protective measures or government special interest. 60-80% of the displaced surveyed were indigenous persons, and there is a risk that their claims to ancestral domain will be jeopardized. While the government will finance normalization, the task of good governance to respond to the needs of these populations is enormous.

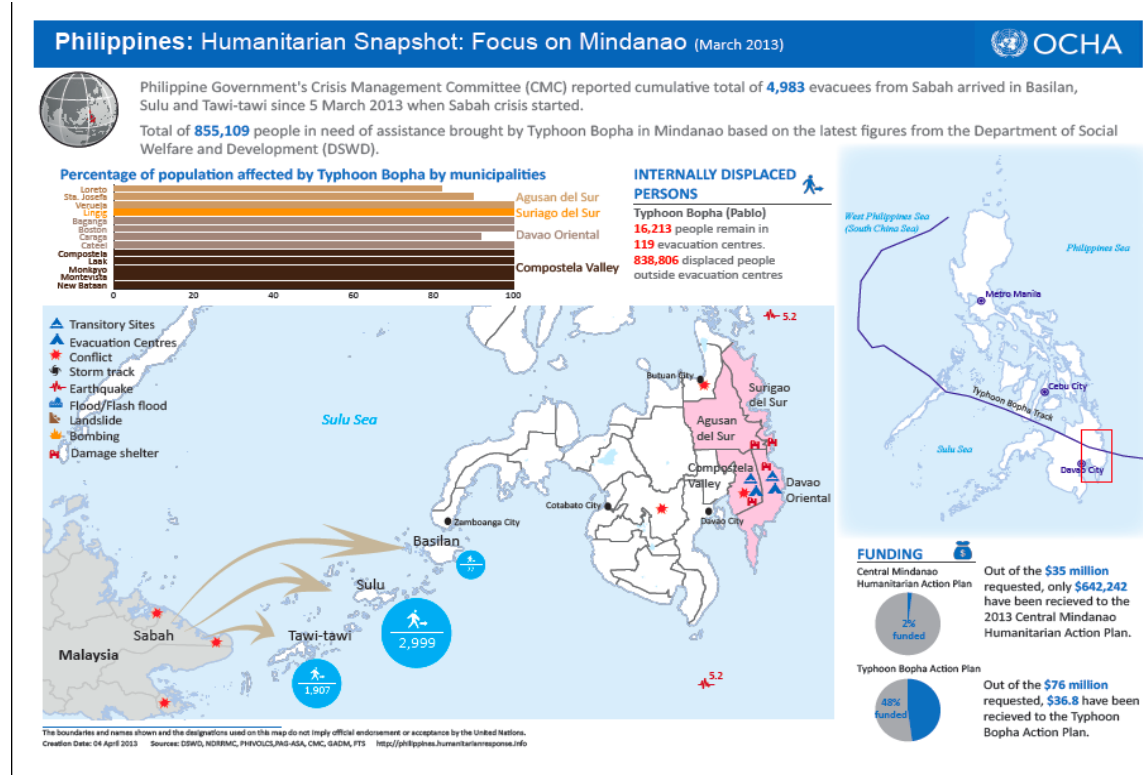


Figure 2 (March 2013): Patterns and Causes of Displacement

Assistance is available for relocation especially in the event of a natural disaster, but relocation is the responsibility of the local government units (LGUs). During the transition period, LGUs at the regional, city, and *Barangay* levels appear to lack access to available relocation assistance.

## Resources

The presence of nonrenewable resources in conflict zones make conflict resolution difficult, because as companies compete for financing and access to these resources they continue to exacerbate the lack of confidence and tensions over access to land. In 2011, KPMG reported that the total power generation capacity in Mindanao was 43% from imported coal (12%) and hydrocarbon resources (31%) and 57% from local resources, geothermal (5%), hydropower (51%) and biomass (1%). Two of the country's largest watersheds are located in Mindanao in Agus and Pulangi. Half of Mindanao's power supply is in hydropower. There are aspirations that these will be bases for cheap and renewable energy resources and power generation in the future, but these aspirations are yet unrealized. The Annex on "Revenue Generation and Wealth Sharing" to the FPA,

signed on 13 July 2013 between the MILF and GPH has agreed on the following allocation:

1. Non-metallic resources: 100% of revenues for the Bangsamoro
2. Metallic resources: 75% revenue will accrue to the Bangsamoro, and 25% to the central government
3. Fossil Fuels: equal sharing between the government and the Bangsamoro

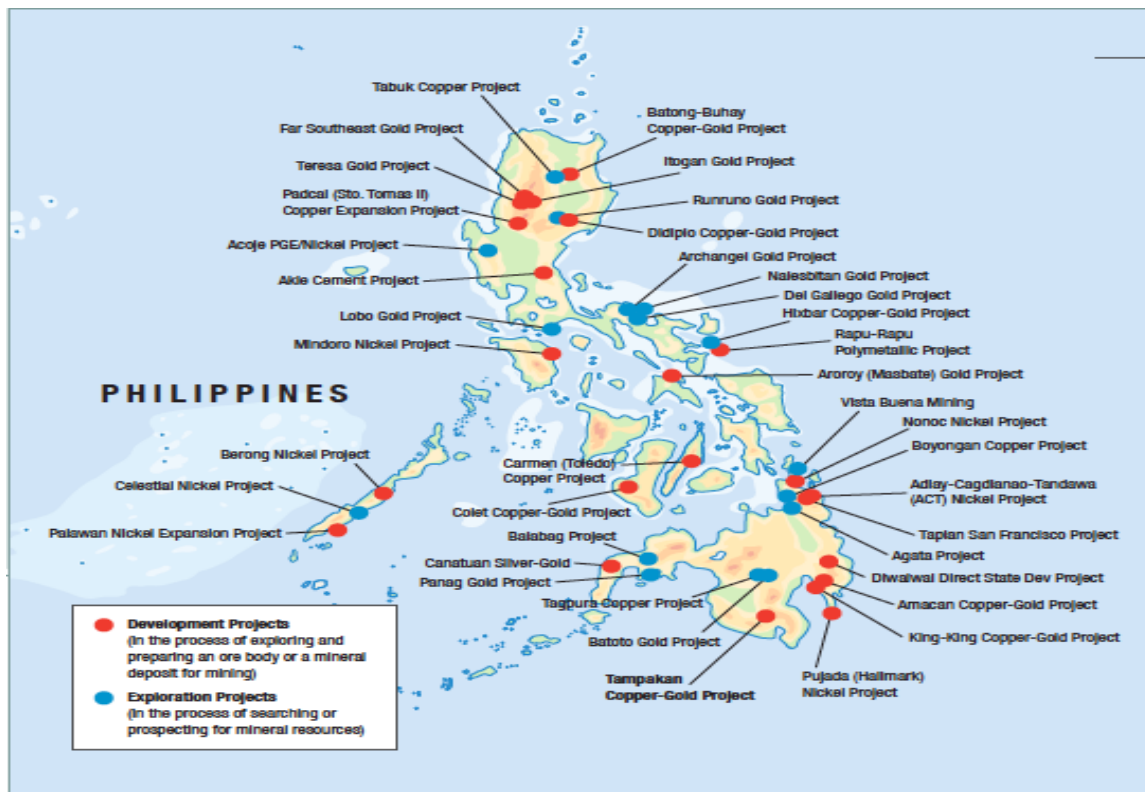


Figure 3: Development and Exploration Projects in the Philippines

One of the Philippines' major exports is mining of gold, nickel, and copper, and the revenue generated from these exports composes 2% of GDP. BHP Billiton Australia owns operations near the ancestral domain areas near South Cotabato, Columbio in Sultan Kudarat Province, and Kibalawan in Davao del Sur Province. On Palawan Island, Rio Tuba Corporation operates a nickel mine, with 60% of its shares owned by Filipinos. However, Japan Pacific Metals Company purchased the company in 2000, and Japanese companies have been leading the mining industry in the area for most of this century. The

Mining Act of 1995 declares that ancestral lands can be mined with the consent of the indigenous community. In case the indigenous community grants consent, they should be entitled to receive an agreed upon share of the royalties. Mindanao also has reported reserves of coal bed methane, but the precise amount is subject to controversy. Mining's major opponents include both the Catholic Church and Indigenous People, who complain that the installment of new mines threatens environmental sustainability. The most controversial mining exploration project has been the Tampakan Copper Gold Project, which is in the exploratory phases 50 km north of General Santos City. While promising job creation, this mine would cause 5,000 people to be relocated. The construction and operation of the mine also may create risks in terms of health, security, and in exacerbating the poverty that already exists in the region (Hann et. al 2013).

Rubber is one of Mindanao's easiest resources to extract and can be found throughout the lands of the ARMM, most particularly in Zamboanga. Rubber plantations in Zamboanga del Norte constitute 48% of the country's rubber production alone. The rubber plantations of North Cotabato are roughly 23,432 hectares of land and were frequent sites of skirmishes between the Armed Forces of the Philippines and the MILF (Unruh and Williams 2013). Basilan also has a substantial amount of rubber plantations. One of the controversies concerning the now failed Memorandum of Agreement on the Ancestral Domain (MOA-AD) was the issue of access to rubber plantations. The governor of North Cotabato owned a rubber plantation that was listed along with the other *barangays* and municipalities as ancestral domain. The governor was able to persuade other leaders to withdraw their support of the MOA-AD by convincing them that they too could lose their land through the MOA-AD.

The success of the palm oil industry in Malaysia and Indonesia has piqued the interest of foreign companies who seek to expand the industry to Mindanao. The presence of the private sector and the possibility of extraction mean that companies will want to expand their production in former conflict-affected areas. This poses a threat to the Liguasan Marsh, one of the area's most thriving in natural resources, and the people that live and depend on it for their livelihoods.

According to informal town hall meetings conducted with various sectors of the population in Mindanao, much of the population still expresses concerns with the lack of

human security on the island. Additionally, there are concerns raised by communities that were excluded from the current ARMM governance structure and the failed Memorandum of Agreement on Ancestral Domain (MOA-AD). Through informal consultations during the trip, I was able to learn that Basilan and Sulu were the places where the gravest violations of human rights including rape took place. Complicating further governance and meeting the needs of the population is the weak financing mechanism with which the current ARMM has been provided. As the ARMM nears the end of its existence, our interlocutors at this entity emphasized the importance of making well-informed decisions with respect to land and infrastructure policy. The organization has launched mapping efforts of roads and land, which has resulted in better allocation of resources.

## **Policy Recommendations**

### To the New Political Entity of the Bangsamoro

As the Bangsamoro will have authority over ancestral domain, land management, humanitarian assistance, and disaster risk management, it is necessary for them to consider the following proposals:

- **Ensure delivery of basic services:** It is necessary for those who are cyclically displaced along with all sectors of the population living within the Bangsamoro to be able to access clean water, electricity, sanitation, energy, education, and healthcare. This is one way for the Bangsamoro to build political capital and to heighten their own credibility.
- **Partner with international NGOs, the Philippine Government, and other appropriate international actors in community mapping efforts:** Employing both quantitative and qualitative efforts and involving the displaced and claimants to ancestral domain will better enable a peaceful resolution of land disputes. This system of documentation should better demonstrate impartiality and alleviate the distrust between the various groups living in Mindanao.
- **Cultivate relationships with the government and use the resources of the Office of the Presidential Adviser on the Peace Process (OPAPP):** By working together, the Bangsamoro and the government can enhance their inter-

governmental partnership. The Bangsamoro can also benefit from OPAPP expertise in dispute resolution to create their own local dispute mechanism to deal with cases that may arise between private companies and the local population.

#### To International and Local NGOs

- **Enhance IDP profiling exercises** to include information on duration of stay in present location, access to infrastructures such as water resources, and needs, and distribute information to local government and civil society partners to systematize policy and program response.
- **Deliver appropriate services such as medical, legal, or job capacitating services** as appropriate, while at the same time creating sustainable programs. Such initiatives should also be focused on improving level of civic awareness amongst youth and the population.
- **Provide appropriate compensation to the displaced and facilitate access to legal documentation** to those who are living in informal settlements. Much work needs to be done to rebuild the population's confidence in other ethnic, religious, and government actors in the aftermath of conflict.

#### To the Government of the Philippines

- **Clarify disaster risk management policies:** Provide better clarity on current no build zones. This is one area where national and local government cooperation can be improved. The national government can provide more information and training, while the Bangsamoro can also better delineate how they seek to carry out DRM policies.
- **End military offensives against groups not included in the peace agreement:** One of the great challenges associated with peace in Mindanao is attempting to build the confidence of all parties to the peace process. While the current peace agreement is with the MILF and the new Bangsamoro political entity, further military action prevents the other parties from unifying behind the provisions in the current peace framework. As these offensives are frequently carried out amongst the civilian population, much displacement results undermining civic

capacitating efforts. When one of these extremist groups threatens or carries out an activity, as far as possible more emphasis should be placed on engaging the separatist elements in dialogue.

- **Continue educational campaigns amongst the population explaining the various annexes to the peace process and what the Bangsamoro political entity implies** both to populations living in Mindanao and also in the greater Philippines. The climate of distrust is being fed by misinformation between the two sides of the conflict. Therefore, it is also necessary to include Bangsamoro leaders as part of these campaigns. Monitoring of such public opinion in Mindanao is also needed for conflict prevention and overall measurement of civic engagement. When the moment is ripe, these information campaigns should be extended to the displaced and the armed groups who are not parties to this framework.

#### To Foreign and National Companies

- **Foster community-company relations.** This will require companies to be aware of the risks and the stances of the various parties to the conflict. This of course requires companies to have political acumen and work in close collaboration both with the national and local authorities in addition to those groups who may be opposed to their presence. Of course, companies should realize that without community support, it is very unlikely that they will have a corporate social responsibility (CSR) business model.
- **Respect national legislation and consult with all indigenous parties before engaging in development projects.**
- **Adhere to environmental standards.**

#### To Minorities Including Christians and Indigenous Persons

- **Partner with government, MILF, and other actors on educational campaigns including media spots.**
- **Promote both cultural or recreational activities that will enable Muslims, Christians, and IPs to better understand one another.**



*Cotabato City at sunset (Wynveen: 2014)*



## **Part II: Negotiating Peace in Mindanao**



# **Malaysian Mediation in the Framework Agreement on the Bangsamoro Munkyung Park**

*“Two panels are now on the same page – soon they will be on the same paragraph, reading the same lines.”* – Tengku Ghafar, July 2012. The general assembly of the MILF in Camp Darapanan (Quintos-Deles and Ibañez 2013)

The collapse of the Memorandum of Agreement on Ancestral Domain (MOA-AD) was a shame not only to the parties, the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). It also meant a failure of the Malaysian mediation. When the MOA-AD, once expected to be a cornerstone for a final peace agreement, was declared as unconstitutional just a day before it was signed, Malaysia lost its credibility as a facilitator with the conflicting parties as well as its own people (Penetrante 2012; Mungara 2011). Nevertheless, four years later, Malaysia brokered its second peace agreement between the GPH and the MILF, as again the third-party facilitator and the most important international party involved in the process. Although the MOA-AD set a historical precedent in an unfortunate breakdown at the last minute and the new peace deal is now waiting for the final determination of the Congress and the Supreme Court, the Framework Agreement on the Bangsamoro (FAB) is so far appraised as a successful peace agreement which has broadened the scope of attention and covered many more details than the MOA-AD (Candelaria 2013).

Mediation is the most common form of conflict resolution since the end of the Cold War. With some debate, two factors have been proposed as the most important for the success of mediation: the impartiality of the mediator; and the power that a mediator wields. The issue of impartiality has evoked intense debate. However, acknowledging that there is no perfect neutrality or altruism, the mediator must be perceived as having an interest in achieving an outcome acceptable to both sides and as being not so partial to preclude such an achievement (Zartman and Touval 1996). Meanwhile, the more resources and leverage a mediator has, the more effective it is to persuade conflicting

parties to make concessions and to ensure disputants adhere to agreements (Kleiboer 1996). A mediator's institutional or positional status, knowledge, and communication skills all form the level of leverage. In the end, mediation success can be understood in two ways – mediation as a process and mediation as an outcome (Siniver and Thomas 2011; Sheppard 1984). While the former approach analyzes the leverage, timing, and impartiality in the course of the peace process, the latter notes the successful implementation and durability of a tangible political settlement: a ceasefire and a peace treaty (Stedman 2000; Rothschild and Cousens 2002).

Negotiating a second peace agreement after one has failed is often more costly in time, money and lives. For example, in Mindanao, while restoring trust between the conflicting parties was a matter of urgency, even the credibility of the mediator was in question in Manila. Meanwhile, acknowledging the importance of the implementation, the Annexes on Transitional Modalities, Wealth Sharing, Power Sharing and Normalization were separately prepared. Consultations on the four Annexes required finding middle grounds on every detailed issue between the parties, which took a long time and much effort. Still, the peace process, hence the mediation, will not end until the implementation of the peace agreement is monitored and spoilers are managed.

Therefore, this paper will focus on the role of Malaysia as a mediator between the GPH and the MILF in the renewed peace process. First, this paper will briefly introduce the overview of the Malaysia's role in peace processes between the GPH and the MILF. Then, the paper identifies how the peace process was resumed and has been managed, with a focus on the role of the Malaysian mediator in each phase. While both the procedural aspect of the mediation and the outcome will be of concern, it will focus on how the mediator's interests, leverage, and strategies influenced the process in dealing with deadlocks. Lastly, the paper will suggest recommendations to the Malaysian mediator for the short term, mid term, and long term that could be implemented in order to consolidate its previous efforts in the FAB.

### **A Facilitator from MOA-AD to FAB**

The peace process was stopped by the “all out war” declared by the Estrada government in 2000 and revived by the Arroyo government the next year. Malaysia assumed a

mediation role upon request of the MILF and the Arroyo government. The country was once not thought of as the best option for a mediator because of its historical background of being a patron of the Mindanao National Liberation Front (MNLF) as well as some doubts on potential bias due to a dispute over Sabah (Mungara 2011; Penetrante 2012; Hopmann 2013). However, its commitment to adhere to international norms on state sovereignty and the territorial integrity of states, given its membership in ASEAN and the Organization of the Islamic Cooperation (OIC), convinced the Philippine government to involve Malaysia as a mediator of the process (Hopmann 2013). Not only serving as a mediator, Malaysia participated in the peace process as a head of the International Monitoring Team (IMT), a group of countries monitoring compliance to a ceasefire mechanism in Mindanao since 2004.

The MOA-AD was a result of an eight-year negotiation under the facilitation of Datuk Othman Bin Abd Razak of Malaysia. Lengthy discussions and numerous concessions enabled agreement on certain common grounds that reflected both parties' needs and expectations. Throughout the process, Malaysia helped the parties to push through impasses by actively suggesting alternatives and introducing an informal setting in the Exploratory Talks to draw discussions on substantive issues (Lingga 2006; 2011).

However, the parties' hopes and efforts were dashed when the Philippine Supreme Court declared the initialed MOA-AD unconstitutional by a narrow vote of 8-7. The Philippines Supreme Court gave two basic reasons for its rejection of the MOA-AD: a lack of consultation during and transparency in the process; and the vague possibility that the Bangsamoro Juridical Entity (BJE) might eventually seek secession (Lingga 2011). The Malaysian facilitator held the Philippine government responsible for the incident, while the GPH accused him of showing bias toward the MILF. With such an uneasy relationship, the Philippine government wanted to replace the old broker, but the MILF insisted Malaysia should stay on as a mediator.

When the Aquino administration was inaugurated in 2010, the peace talks resumed with new negotiation peace panels, and Malaysia also changed its facilitator to Tengku Dato Ab Ghafar Tengku Mohamed. Under the auspices of the new facilitator, the negotiations showed significant progress. In October 2012, the long-awaited FAB was signed in Kuala Lumpur in the presence of the Malaysian facilitator, and the negotiations

for a comprehensive peace agreement were completed as of January 2014 when the final Annex on Normalization was signed.

Invited by the parties in conflict, Malaysia saw its own interest for participating in the process. While security issues and violence continued in southern Philippines, an increased proliferation of small arms and light weapons in the Southeast Asian region posed a potential threat to the Malaysian government and a huge flow of refugees has moved to Sabah (Penetrante and Greene 2011). Sabah was especially of concern to maintain Malaysia's territorial sovereignty because there had been a land dispute between the Philippines government and the Malaysian government over Sabah, which was once a part of the Sultanate of Sulu as well. Therefore, having a Moro government friendly to Malaysia, or at least susceptible to its influence, would serve Malaysia's national interests (Mastura 2011).

Moreover, greater cooperation by the Philippines government also created a better possibility for controlling the movement of illicit commerce and piracy in the Sulu and Celebes Sea. Maintaining good relations and increased voice in ASEAN were other incentives for Malaysia to participate in the peace process. If any other external actor participated in the process, it would have meant a further increase of external powers and interference in Southeast Asia, which was the least preferable option for Malaysia (Mungara 2011; Santos 2013).

### **Overcoming the Shadow of the MOA-AD**

The MOA-AD was a product of more than a decade-long peace process. The sudden turn of events disappointed all of once-high expectations, and damaged the MILF's trust in the authorities that the parties had steadily built over the course of the long peace talks. Again, it is usually even harder to "re-build" trust than to "build" it from the beginning. Meanwhile, the Malaysian mediator was not exempt from blame either. Therefore, not only did Malaysia have to encourage the parties to restore trust, but it also had to regain credibility itself.

### Re-building Trust between the GPH and the MILF

The trust between the GPH and the MILF, especially the MILF's confidence in the government negotiation party, was seriously damaged in August 2008. It was said that the Supreme Court intervention was a last resort attempt by opponents to the MOA-AD (Lingga 2011; Personal Interview, Manila, 2014). Othman believed that only a few issues blocked the agreement, stemming from Manila's lack of political will to reach a negotiated settlement, and that they could circumvent constitutional barriers with a few concessions. Therefore, he criticized the Philippine government harshly and continuously increased pressure on the GPH to resume negotiations with the MILF. While requesting that rebel leaders remain calm and cease provoking violence, Malaysia threatened to withdraw its forces from the IMT. Having contributed largely to the decrease of armed skirmishes during its term, the IMT was eventually withdrawn in November 2008 when its mandate expired, frustrated by the inability to carry out its monitoring function effectively.

Later in the same year, the Philippine government decided to dissolve the previous government peace panel and offered the resumption of talks with a reconstituted negotiating panel headed by Rafael Seguis, who replaced Rodolfo Garcia. The new round of talks would continue under the condition that the GPH would uphold any commitment it made during the peace talks. Consequently, both parties declared a suspension of military actions and resumed the talks after a year of impasse in the GPH-MILF peace process. The Malaysian third party facilitator conducted a two-day special meeting in Kuala Lumpur, Malaysia in July 2009 where both parties acknowledged the MOA-AD as "an unsigned and yet initialed document" so that any following document should contain similar provisions with some consensus points reframed. The parties also agreed on the establishment of an International Contact Group (ICG), or a hybrid facilitation support body, mandated to act as a bridge between multiple stakeholders (Santos 2013). The mandate of the IMT was also renewed.

The GPH and the MILF panels exchanged comprehensive drafts of possible agreements in January 2010, and both parties were able to clarify their positions. Nevertheless, there had been no significant progress in the process until the Aquino administration was inaugurated in 2010. A Declaration for Continuity of Peace

Negotiations between the GPH and MILF, signed at the last minute by the previous regime in June 2010, secured the early achievements (HD Centre 2012). The peace talks resumed with, again, new negotiation peace panels chaired by Marvic Leonen, Dean of the University of Philippines Law School. After a year of exchanging opinions on peace proposals, the new Malaysian facilitator shuttled between the parties and finally shook off the distrust between the two negotiating parties (Karim 2012; Hopmann 2013).

#### Re-achieving the Credibility of a Malaysian Mediator

Once confidence in a mediator's neutrality and ability to deliver an expected performance is battered, his presence may even have counterproductive effects for the entire process. The GPH had expressed its discomfort with Malaysia well before the failure of the agreement. Above all, the Malaysian facilitator, Othman, was characterized as biased in favor of the MILF. Indeed, the Malacanang even considered asking Indonesia, a more "honest broker," to take over Malaysia's role in the peace process (Santos 2013). The Aquino government still looked warily at Malaysia as a third party facilitator, although the MILF was adamant to keep the country in the position as the process moved forward.

The issue was resolved by the replacement of Othman by a new Malaysian facilitator, Tengku Dato Ab Ghafar Tengku Mohamed, on the 21st Round of the Formal Exploratory Talks in April 2011. Nevertheless, when Othman was finally replaced, Tengku still had to prove his neutrality and impartiality while having the same facilitation staff and its institutional memory (Santos 2013). The new facilitator's mediation style and personality worked to mitigate the concerns. Tengku's mediation was often characterized as "quiet diplomacy," a principle of non-interference, which helped to overcome the impasse that arose primarily between the GPH and the Malaysian government, whereas Othman had been more directive in style. Initially also unsatisfied with the fact that the Malaysian facilitation team came from the Research Division of the Prime Minister's Department, not the Ministry of Foreign Affairs, the GPH peace panel learned to adapt to it as Tengku had proved himself as being an "honest broker" (Santos 2013).

Malaysia could have ended its role as a facilitator and left the table if it had sensed the government's lack of commitment to reach a deal with the MILF, but instead



it waited until the next government assumed office. However, its vast interest in peace in southern Philippines encouraged Malaysia to serve as a committed mediator when the talks reached a deadlock. Along with its original interest in a peace agreement, Malaysia could have lost its regional influence and reputation if it were associated with a failure in the peace process. Moreover, the possibility that Indonesia might become its successor as a mediator was even more undesirable.

### **Bulding a Stronger Peace Process**

While the GPH and the MILF did not have to start from scratch by acknowledging the MOA-AD as a preliminary document, some substantial points and vagueness in the previous agreement had to be reframed and addressed. The parties had to take time again to exchange demands and to discern each other's bottom lines. Even after overcoming mutual distrust over time, there were many deadlock moments between the parties. The signing of the FAB, which occurred on 15 October 2012, was a major breakthrough that secured Malaysia's role as a facilitator of these negotiations. Following that, Malaysia furthered the completion of the negotiation process by facilitating four annexes and a Comprehensive Peace Agreement in 2014.

During the course of the negotiations, Malaysia not only provided a conducive atmosphere, venue, and facilities, but the country actually moved beyond its role of facilitation towards mediation (Santos 2013). While Malaysia played a key role in preventing a resumption of violence with its leading participation in the IMT, both negotiating parties made significant concessions on broader issues and on details to make the deal happen with the help of the Malaysian facilitator (Karim 2012). The country's efforts to assist the disputants to reach a new compromise were praised as being neutral and effective both by the government and its counterpart, as well as by close observers.

### **Seizing the Conflict Ripeness**

"Conflict ripeness" felt by both parties greatly strengthened the strategic leverage that the Malaysian facilitator could exert. The withdrawal of the IMT and an intensive increase in hostilities and violence in the aftermath of the Supreme Court's decision produced a mutual agreement on the necessity of a suspension of military actions and a further

elaborated ceasefire monitoring system with the establishment of a Civilian Protection Component (CPC) (Hopmann 2013). Moreover, national and local elections scheduled on May 2010 gave the process a tight timeline (HD Centre 2010).

The Aquino administration was clear about its desire to complete a framework agreement by the end of 2012 and to establish the transition authority by early 2015, one year prior to the next presidential election. President Aquino believed that the fever of the 2016 presidential election would have paralyzing effects and undermine what had been achieved (Hopmann 2013). Moreover, such a strong commitment to the successful peace agreement made the Aquino government also commit to getting a fair agreement. The latest round of negotiations not only incorporated most of the provisions of the MOA-AD but went well beyond what needed to be mentioned. On the contrary, the general public of the Philippines were mostly indifferent to the Mindanao issue which made it easier for the GPH panel to make concessions to its counterpart on a few provisions (Personal Interview, Manila, 2014).

The MILF learned that complete independence or even a formal “state-substate” relationship would be unattainable under the 2008 constitutional ruling that derailed the MOA-AD. However, any form of governance that enjoyed a higher degree of autonomy and covered larger territories than that of the Autonomous Region in Muslim Mindanao (ARMM) was enough to motivate the MILF to commit to a new peace process. The new “Bangsamoro” autonomous political entity was an alternative power-sharing arrangement to the creation of a separate, sovereign entity. Meanwhile, a plebiscite in every region that would determine the Bangsamoro territory gave the MILF another incentive to make the agreement inclusive and sensitive to the legitimate interests of the widest range of peoples in Mindanao (Hopmann 2013).

#### Mediation Support by the International Contact Group

The ICG was a creation of the two negotiating parties and their third party facilitator, Malaysia (Rood 2012). After the breakdown of the peace deal in 2008, the MILF urged the necessity of “an international guarantee from states or an association of nations” as one of the conditions to resume a new process (Fernandez 2008). It was an attempt to help the previously undermined mediator to improve his standing as well as his limited

leverage over the GPH by involving other actors with their own potential leverage (Fitrah 2012). While the government was unwilling to include big powers or multilateral organizations, the MILF wanted to balance the asymmetric power distribution by engaging with multiple and influential actors (Herbolzheimer and Leslie 2013). As a result, the ICG was established in an ad hoc manner in September 2009 with the participation of four member states – the United Kingdom, Turkey, Japan and Saudi Arabia; and four NGOs – The Asia Foundation, the Centre for Humanitarian Dialogue, Conciliation Resources, and Muhammadiyah – who were invited by the negotiating parties in consultation with the facilitator (Hofmann 2011). (See further discussion of the ICG in the following chapter by Helga Kalm).

#### Administering the Talks with Quiet Diplomacy

Malaysia hosted 28 Exploratory Talks between the GPH and the MILF (from the 16th meeting to the 43rd meeting) as well as other unofficial or special meetings from the collapse of the MOA-AD until the last Annex of the Bangsamoro Framework was signed. Throughout the series of negotiations, the presence of the third party Malaysian facilitator at the negotiating table increased the parties' commitment not to retract previous statements and tentative agreements. Moreover, the facilitator provided a positive atmosphere conducive to settlement. When the talks reached a deadlock, the Malaysian facilitator, together with the ICG, helped bridge differences by shuttling between the parties and even suggested alternative solutions (Santos 2006). Meanwhile, informal meetings provided by the third party mediator were especially important in the initial stage. Not only did they help the parties in clarifying each other's position and identifying how to move forward, they nurtured a sense of friendliness between the parties (Karim 2012). Through such continuing discussions on pending issues in this informal setting, formal talks could resume with more contentious issues already having been ironed out (Santos 2006).

The replacement of Othman by a new Malaysian facilitator, Tengku, further increased the “quiet diplomacy” of Malaysia's mediation. The difference between the two facilitators derived from each individual's personal style. The previous facilitator, Othman, played a more “directive” and “pushy” role, whereas the latter, Tengku, was

“low-key” and “quiet” in style (SAIS group meeting, Manila, January 2014). The new facilitator barely intervened in negotiations unless negotiating panels reached a point of disagreement, and even then he never issued ultimatums (Santos 2013). The former style might have worked better when it was necessary for reaching agreement on the key principles, as proved by Othman’s achievement in driving the MOA-AD, which became a foundational, precedent setting document of the FAB. In the latter phase of the peace process when the parties had to talk about more detailed issues and get rid of any ambiguity, quiet diplomacy helped the parties to find mutually-satisfactory and conclusive agreements without disturbing the balance between the two sides (Santos 2013).

#### Increased Inclusiveness and Transparency

The mediator, as well as the negotiators, made it clear that they made the talks transparent, including concessions discussed in closed-door sessions, so that there would be no surprises (Panares 2014). This was particularly important provided that the previous MOA-AD was charged with a lack of transparency and consultation by the Supreme Court. Legislators who did not have complete information about the entire peace process would worry about potential interpretations of the new agreement and its compatibility with the Constitution (Kraft 2013). Therefore, while the confidentiality of peace negotiations must be respected, the principle of transparency was set to overcome the “fear of the unknown” and to gain full support for the accord from all sectors.

#### Departing Train Strategy against Spoilers

The Malaysian facilitator continued to hold meetings even immediately after events intended by spoilers to disrupt the process (Hopmann 2013). Although the facilitator emphasized the necessity to manage the spoilers, he convinced the parties to separate key issues on the negotiating table from the issue of dealing with spoilers. Since the mandate of the IMT is limited to monitoring the ceasefire agreement between the GPH and the MILF, the Armed Forces of the Philippines (AFP) are in charge of an anti-insurgency program against such factions. As a result, the talks were saved from being halted and delayed.

In addition to the parties central to the peace process, various other stakeholders in society should have had seats at the table. However, the mediator maintained an intransigent position against the spoilers, considering them as total spoilers whose demands could not be accommodated in the on-going peace process (Stedman 1997; OPAPP 2013). Armed groups such as the Abu Sayyaf Group (ASG) and the Bangsamoro Islamic Freedom Fighters (BIFF) were often labeled terrorist groups and delegitimized. At the same time, the strategy of marginalization was also based on a calculation that no armed group in Mindanao, except for the MNLF, was powerful enough to derail the treaty between the GPH and the MILF (*The Star Online* 2012).

### **Unresolved Issues**

So far, the mediation has been successful as a process. The Comprehensive Agreement is prepared as a mediation outcome. As the Bangsamoro Basic Law will be submitted to the Philippine Congress by the end of 2014, the Bangsamoro Transition Authority (BTA) is expected to be created. However, a post-agreement context often requires new rounds of mediation. In a complex transitional process, a number of difficulties lie ahead in the implementation phase. Therefore, a real mediation success can only be declared later with its effectiveness in bringing enduring peace. (See other chapters herein regarding the transition process, especially Merrill's chapter on helping the MILF to transition from fighting force to political actors).

Malaysia is also entangled with its own problem of a possible spoiler. The "Sabah claim" by the Sultanate of Sulu has been largely ignored during the GPH-MILF peace process. The conflict is a relic of the colonial era when the Sultans of Sulu leased Sabah to the British North Borneo Company. However, when Malaysia was established in 1963, Sabah became part of the new country, which sparked the Philippine-Malaysian Sabah dispute as well. While the Sultan's claim has no legal international standing, the late Sultan Jamalul Kiram III and his followers felt that their request to be consulted on the MILF agreement went unheard (Vatikiotis 2013). Nevertheless, the last invasion into Sabah ended up claiming several lives, and President Aquino has meanwhile urged Kiram's followers to surrender without condition (Patria 2013). Therefore, while

temporarily quelled, the Tausug from the Sulu archipelago are likely to reclaim their rights and raise valid questions about the sustainability of the FAB.

## **Recommendations**

A number of new opportunities and constraints that emerge during implementation often give the peace settlement its final shape. Therefore, the Malaysian facilitator, a guarantor of the peace treaty, should:

- **Provide a disinterested and authoritative interpretation of the agreement whenever there is a difficulty in compromising different understandings. The mediator can serve as a channel of communication**, requesting concessions and commitments from both parties, especially when there is no specific dispute resolution mechanism defined in the agreement. This will help prevent any backsliding arising from misunderstanding, miscalculation, and changing political dynamics during the implementation process. Particularly sensitive in a complex transitional process are the plebiscites that will take place to ratify the Basic Law and to decide whether or not each province wishes to be included in the Bangsamoro entity.
- Provide moral support to outside advisors who will monitor and evaluate the implementation of the signed agreement. Instead of being a supervisor for the entire implementation process, **the Malaysian mediator should actively engage and maintain close ties with local and community-based actors or organizations including the Third Party Monitoring Team (TPMT).**
- **Guarantee Malaysia maintains its leading role in the IMT until both parties have fully complied with their obligations in the negotiations.** While an Independent Decommissioning Body (IDB) will oversee the normalization process, and the parties are now downsizing the IMT personnel, its mission to monitor the ceasefire is still key to preventing unnecessary skirmishes between the government forces and the MILF until the DDR process is fully completed.
- **Urge efforts to accommodate the MNLF and the GRP-MNLF 1996 final peace accord in the on-going peace process.** Although Malaysia's mediation mandate is limited to the relationship between the recognized parties, **managing**

**potential spoilers is a key to success** especially when the MILF does not have full control over the entire area. While the MNLF's strong aversion to Malaysia prevents the facilitator from becoming a direct mediator in the intra-Moro relations, **Malaysia can work closely with Bangsamoro civil society** as well as other commonly acceptable actors including the OIC **to take more active roles in a GPH-MILF-MNLF mechanism.**

- **Be more active in unraveling its own conflict regarding Sabah with the Sulu Sultanate.** When it is a fair approach to separate the issue from the GPH-MILF peace process, the claim by the Sultan and his people may taint the mediation effort. However, considering the timing of the Sabah incursion and their demands, circumstantial evidence indicates that they are limited spoilers. Therefore, instead of fully marginalizing the potential spoilers, Malaysia may make arrangements for the heirs of the Sultanate of Sulu to increase the annual payment of P70,000 which has remained unchanged for more than a century, and devise other inducement strategies.





# **The Role of the International Contact Group in the Negotiations**

**Helga Kalm**

Since 1997 the Government of the Philippines and the Moro Islamic Liberation Front (MILF) have been engaged in on-off peace negotiations. External facilitators have been involved in the process, including Malaysia as the official mediator, supported by the International Contact Group (ICG). The role of the ICG was to attend and observe negotiations in Malaysia, to advise the facilitator, to maintain trust between the parties and to ensure the implementation of mutually agreed points. The composition of the group was novel, as it included NGOs in addition to states. However, while the ICG played a crucial role in getting the parties to the table and certainly helped to build trust between the MILF and the government negotiation team, it also helped the government dominate the negotiations and outcomes.

The representatives of the government, the MILF, and the Malaysian Government Facilitator signed the agreement on the participation of the ICG on 15 September 2009. The previous peace talks had broken down in 2008, after which the MILF Chairman Al Haj Murad Ibrahim requested an international guarantee of states or association of states to be formed as a condition for the resumption of the peace talks (United States Institute of Peace 2011). Initially, the MILF wanted to use the ICG as a problem-solving mechanism, but the government refused to further internationalize the issue. The agreement finally established the ICG as an ad hoc and issue specific instrument with the mandate to attend and observe the negotiations, visit and advise the parties of conflict either by themselves or together with other experts. Therefore the role of the ICG has been twofold: it facilitates negotiations by providing advice, while also serving as a guarantee for the MILF that mutual agreements actually get implemented.

The ICG that was created in the Philippines is the first international contact group where civil society representatives and state representatives work together in a permanent and formal setting. Because the main reason for the creation of the ICG was to involve external guarantors, representatives of the EU and the Organization of Islamic

Cooperation (OIC) were naturally included as members. The ICG includes two Muslim countries, Turkey and Saudi Arabia, and two non-Muslim countries, the United Kingdom and Japan. The UK was looking for a way to be involved in the peace talks similarly to the US, which for historic reasons would not have been an acceptable member of the ICG, therefore opening the door for the UK. The UK has been a valuable member as it has brought in expertise from its own experiences in Northern Ireland. Japan on the other hand is a regional power that cares about regional stability and has given a lot of aid to Mindanao.

The four international civil society organizations initially included in the ICG were the Indonesian social organization Muhammadiyah (Indonesia), The Asia Foundation (US), the Centre for Humanitarian Dialogue (Switzerland) and Conciliation Resources (UK). Again, the organizations involved reflect the MILF's desire to have an international guarantee. The OIC would have been a logical party to include as it is the largest organization representing the interests of the Islamic people, but because they recognize the MNLF as the official representative of the Bangsamoro people they were excluded. Instead, Muhammadiyah as an international Islamic NGO was invited to be part of the ICG. The others were Western-based international organizations invested in the region or in conflict management issues. The Asia Foundation is a US-based nonprofit international development organization committed to development in Asia. The HD Centre is focused on mediation and mediation support, while Conciliation Resources concentrates on peace-building. In September 2013 the Community of Sant'Egidio replaced the Asia Foundation in the ICG, because the latter became part of the Third Party Monitoring Team. The Community of Sant'Egidio is a Catholic lay-workers' organization that was suggested by Muhammadiyah as a replacement member.

The eight members work together well, despite their different approaches and areas of expertise. According to Ali Saleem, Director of the Philippines office of the HD Centre, the NGO representatives and the diplomats managed to work together well because there is a lot of trust between the members and because their work is confidential (SAIS group meeting, 16 January 2014). Every member of the ICG focuses on what they are good at and, because the institutions are different, so are their areas of expertise. According to Conciliation Resources, "International NGOs have technical expertise and

also the flexibility to engage with a wide range of actors and explore new ideas; at the same time diplomats provide essential leverage and political and economic support for the peace process” (Conciliation Resources). All in all, it seems that the ICG has a broad range of tools at their disposal in order to work well.

### **Impact of the International Contact Group**

The overall image of the ICG has been considered positive. Conciliation Resources claims that the “ICG has been able to provide quiet, thoughtful, balanced and respectful support to the parties, the facilitator and the overall talks, ranging from simply witnessing the talks to actively shuttling between the parties to ease deadlocks and suggest ways forward” (Conciliation Resources). Furthermore, both the government negotiations team and the MILF have evaluated the impact of the ICG to be positive (SAIS group meetings, January 2014).

The big achievement of the ICG has been the creation of space for the negotiations to take place in. Creation of the group was a requirement for the MILF to come back to the negotiations table. Initially it was a very loose mechanism, but over time it has evolved a lot. The MILF and the government were initially very suspicious of each other (SAIS group meeting, 16 January 2014), but the ICG has been a successful confidence-building measure as it has kept both sides at the negotiation table. The government relies on it more and more. Similarly, the new Malaysian facilitator, Tengku Dato Ab Ghafar Tengku Mohamed, has shown that he thinks that the network is useful (SAIS group meeting, 16 January 2014). Malaysia, despite being a political actor in the negotiations, has learned how to work with the ICG. Moreover, the ICG has brought more international attention to the conflict, which according to Colonel Hermoso of the AFP detachment in Cotabato City resulted in humanization of soldiers and a decrease in fighting. Reduction of violence in turn helps the ICG and the parties to increase trust in each other.

In addition to confidence-building, the ICG has helped the parties when the talks have run into a deadlock. According to the Government chief negotiator, Miriam Coronel-Ferrer, the ICG has been able to have a positive influence because they have not overstepped and acted in the interest of either one of the parties (SAIS group meeting, 21

January 2014). When the negotiations are not moving forward, the ICG helps the sides to come up with alternative solutions. They rephrase the issues in a way that allows the negotiations to move forward. For example, in some cases they have produced matrixes that include common points and opposing points as well as areas of potential concessions to help better understand the sides' positions and room for cooperation. Although they act outside their mandate by suggesting solutions, it has helped the negotiation process to move forward.

Furthermore, including civil society organizations in the ICG has given the group the flexibility and set of skills that other similar contact groups have not had. Civil society organizations are more flexible in their communications than are the states, because the consequences they face are different from the states that are in direct bilateral relations with the Philippine government. Organizations that are focusing on peace-building and conflict mediation have the set of skills needed to build trust that state diplomats do not always have. In addition, the NGOs are better connected to the local NGO network, which they can use to gather information. They can use the NGO network either to gather expertise or to help them in their communications with the parties and local populations. Conciliation Resources, believes that through the ICG, it "has been able to play a key role in mediating during the talks themselves and ensuring the voices of civil society are heard throughout the process" (Conciliation Resources). In addition, the NGOs are believed to be the glue within the ICG and the main reason for which it has survived this long (SAIS group meeting, 22 January 2014).

Finally, because the ICG will continue to be part of the Monitoring Team after the negotiations are over, the conflict will remain under international attention. Therefore, despite ICG members not providing official guarantees, there is still pressure on the government to support the full implementation of the agreement.

### **Biased Negotiations**

Although the ICG has created and kept up an environment of trust, it has done little to balance the negotiations. While it is not part of its mandate to secure the fairness of the agreement, it should be a necessary precondition of the mediation effort as well part of the trust building component that the ICG is responsible for. A successful and balanced

peace agreement should be in the ICG's interest, because it would increase the possibility of a lasting peace. Unfair settlements at the same time can easily lead to future uprisings and an increase in the level of violence. The unfair bias manifests itself in the framing of the discussions and in the agreement, and is known to the negotiating parties (SAIS group meetings, January 2014).

One cannot expect the ICG to be fair in dealing with state and non-state actors. The states within the ICG have bilateral relations with the Government of the Philippines, which is why they cannot push that side too much. The problem is that Saudi Arabia as a Muslim country should be pushing to help the MILF, but has been relatively inactive. According to people involved in the process, they only agreed out of politeness to be part of the process, which might explain their lack of interest (SAIS group meetings, January 2014). Turkey, the other Muslim country included in the process, has at the same time been actively involved, but unfortunately their representations in the Philippines and Malaysia are very small. However, the government negotiator has known several members of the ICG for years before the negotiations started and the personal relationship is bound to have an impact on the course of the negotiations. At the same time, the NGOs don't have much power to push the parties. All in all, the ICG has played a rather passive role in balancing between the interests of the sides, which can potentially have a negative impact on the outcome.

### **Unbalanced Nature of the Negotiations**

The negotiations have been unbalanced since the beginning. The government has very clearly indicated what it is not willing to negotiate on. It is not open to introducing any changes to the constitution, because it is afraid that it will open the door for further constitutional changes, eventually threatening the democratic nature of the country. Furthermore, the government is not interested in creating a precedent that other regions could use to argue for their own autonomy. However, without changing the constitution, the nature of the agreement the parties can work out has several limitations. For example, some of the executive powers that the MILF would like to exercise are listed in the constitution as sole powers of the central government. Furthermore, the government has set strict time limits – the agreement needs to be signed and implemented during the

current president's term. Because the president cannot be re-elected and it is uncertain who will be the next president, the government wants to make sure the agreement gets signed and put into effect during Aquino's term in order to avoid future changes to it. The next president might not be as sympathetic toward the MILF and might try to change the way the agreement gets implemented. The president's desire to sign the agreement during his term is reasonable as he is very popular, and therefore, his personal popularity might be essential for the resulting Basic Law to pass in the Congress.

The points the government is not willing to negotiate on are very clearly stated and are reasonable given the history and context of the negotiations. However, not much attention has been paid to what the MILF considers its bottom line – points that they are not willing to negotiate on. Their limits are hardly ever brought up and are often discarded as merely symbolic (SAIS group meetings, January 2014). This is partly because their minimum requirements are not that well defined and therefore leave more space for negotiation. In an interview with a civil society representative in Cotabato City the MILF was criticized for being too accommodative and not pushing hard enough to protect their own interests (SAIS group meeting, January 2014). The problem is that the MILF is also responsible to its supporters and cannot therefore accept an agreement that would give them less power than the 1996 agreement. At the same time they cannot be more powerful with less money. There is real potential of escalation of violence in the region, if the local population is not willing to accept the agreement. While the government has to protect its own interests in the negotiations, the ICG could have played a more balancing role.

One of the biggest concerns for the MILF has been the issues discussed in the Normalization Annex, which includes disarmament, demobilization and reintegration. Given that there are other rebel groups in the region, the MILF does not want to disarm first and then potentially lose their organizational control over the other rebel groups. Furthermore, they don't want to decommission fast in case the government fails to implement the agreement fully and then by having disarmed they would have lost their power to resist. Reorganizing their structure and reacquiring arms would be a lengthy process, which is why the government has to offer strong guarantees to prove that the MILF is not giving up its arms for nothing. Historically, the MILF has every reason to be

afraid that the government will not be able to deliver on its promises. The government accepts a gradual disarmament process, but pushes the whole process to take place rather fast. The Normalization Annex in its present form speaks about the disarmament of other groups separately, but forces the MILF forces to decommission in a way that is “parallel and commensurate to the implementation of all the agreements of the Parties” (Office of the Presidential Adviser on the Peace Process). Because the transition period officially lasts until the 2016 elections, this means that the BIAF has to disarm by that time too. The ICG has supported the government’s cause in this matter. The UK has strongly pushed the MILF to agree to decommission (SAIS group meetings, January 2014). The UK pushed for disarmament partly because their own experiences in Northern Ireland, where it was successfully done. However, the situation is different in Mindanao and the risks of an escalation of violence are higher.

The MILF also would have preferred to have more time afforded in the agreement for the set up of the government institutions. Setting up the government structures before the 2016 elections does not leave the MILF much time to address local problems in depth. As the events in Egypt show, transition takes time and often things get worse before they can start getting better. It is very hard to explain this to the local population, which is why it is possible that the 2016 elections will not bring the MILF the desired results. In addition to introducing a new system of local government in the Bangsamoro region, the MILF also has to reform internally in order to become a political party and participate in these elections. It is possible that the population will be disappointed with the initial results and that the MILF will not perform well in the 2016 elections. Furthermore, the discontent might be presented in more violent forms, and if the DDR does not go well the situation might become very dangerous. The MILF has not indicated its limits here clearly so that the government has managed to push their position better in the negotiations. The MILF’s desire to have a longer transition period is reasonable, but their demand has been constrained by the presidential term. This again would have potentially been a good opportunity for the ICG to help the sides brainstorm and come up with a more sustainable solution.

The government is naturally in a power position in the negotiations. The Aquino Administration even managed to make Malaysia change the facilitator on the grounds

that the previous one was biased toward the MILF. The MILF in turn has been too accommodative without properly thinking what their best alternative to a negotiated agreement would be. By not clearly defining what their limits are they may be pushed to negotiate on positions that fall below their BATNAs. Although the ICG has not created the natural asymmetry that exists in the negotiations, it has done little to limit the bias. The ICG is supposed to be a neutral party that facilitates the negotiations and guarantees the implementation of mutual agreements. Instead of helping the parties to find alternative mutually favorable solutions, members of the ICG have at times been a little bit biased toward the government by pushing the MILF to agree to terms that contradict their basic demands.

## **Conclusion**

The view about the functionality of the ICG varies a lot among those involved in the negotiations and among the general population. While the general public has a very positive attitude toward the ICG, the officials involved are not always as optimistic. The main concerns about the ICG have been related to the organization having no actual power or influence and its relative bias toward the GPH.

The most important achievement of the ICG has been sustaining the trust and confidence of both sides at the negotiation table. That means that the team has the confidence of both of the parties to the conflict as well as the Malaysian facilitator. This is probably due to its confidentiality requirement and in most cases impartial advising. The members of the ICG have expertise in different areas that is helpful in coming out of deadlocks. In addition, the impact of the ICG on the local NGOs has been positive, as it has engaged them in the peace process. Interacting with the local civil society organizations has provided valuable information that has been used in the negotiations. The public, including several representatives of local NGOs, sees the ICG as an international guarantor for a just agreement (SAIS group meetings, January 2014). Indeed, the ICG has been there to see that the implementation of the mutually agreed points takes place. That is also why the ICG will in the future be integrated into monitoring mechanisms. To sum up, their role has been positive in combining knowledge and using it to keep the negotiations going, while also including more local people in the process.



At the same time, the positive role has been partly overshadowed by the critics who argue that the ICG has been biased towards the government. The ICG has overstepped its position of neutrality and pushed the MILF to accept terms of agreement that are in direct conflict with their fundamental interests. Although, these instances have been rare, one cannot overlook them. People not actively involved in the negotiations but who follow the process closely have said that the ICG has been inactive and has not pushed the sides enough (SAIS group meetings, January 2014). It could be argued that the negotiations would have benefitted from a more active engagement. The ICG could have had a bigger impact on the negotiations if its mandate had been extended so that it could have officially provided the parties advice and help them in brainstorming for alternative solutions. The ICG did advise the parties and offered alternative solutions, but a more expansive role could have potentially reduced the risks that the current agreement creates.

There are several lessons to be learned from the experience, including ways to improve similar bodies elsewhere.

## **Recommendations**

### For the International Community

- **INGOs should be included in future contact groups** elsewhere as well. The GPH-MILF ICG has proved that the INGOs can contribute to the negotiations with their own expertise as well as knowledge gathered from their network of local NGOs.
- **The parties should ask members of the ICG to accept a certain level of commitment before agreeing to be part of the group.**
- **Representatives within the ICG should preferably not have had previous relations with negotiators on either side.**

### For the International Contact Group

- **ICG should continue its involvement so that it can monitor the implementation of mutual agreements.**

- **ICG should continue to be involved in the implementation process to secure the trust between the parties** that has been built so far. The ICG has done a good job during the negotiations in sustaining trust between the parties. It is most likely that there will be a need for someone to do the same during the implementation period as there might be disagreements in the ways certain aspects of the agreement or annexes should be implemented.

#### For the Government of the Philippines

- For a lasting peace, it could be helpful to **work on better understanding the reasoning behind the MILF demands rather than push them to agree with the GPH terms**. The MILF, much like the government, is responsible before its local supporters. The MILF cannot give in too much; otherwise it will lose its local support network. The MILF at the moment is a well-organized partner for negotiations but if it fails there are no alternative bodies to negotiate with and the region might face a surge in violence.

#### For the MILF

- **The MILF should not be afraid to call on the ICG** if it feels that the group is acting in a way that is biased toward the government.
- **The MILF should better define points that they are not willing to negotiate on when working out details of the signed annexes**. This means that they should work closely with the government in the decommissioning of other rebel groups in the Bangsamoro region.
- **Bringing in experts from the GPH, INGOs and NGOs might be useful in the transition process**. Continuing the cooperation with some of the members of the current ICG might be helpful as there is already an existing relationship and the parties know each other.

# **The Philippine Constitution and the Framework Agreement on the Bangsamoro**

**Felix Neugebauer**

The right of all peoples to self-determination is a core principle in international law. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Contemporary notions of this principle distinguish between internal and external self-determination, with internal self-determination referring to a people's right to determine its own destiny within a larger political entity, and external self-determination referring to full legal independence from that entity.

The quest for self-determination is at the root of the decade-long conflict between the Moro people in Mindanao and the central government of the Philippines. Steps towards greater autonomy for Mindanao were taken in 1989 when Organic Act No. 6734 created the Autonomous Region in Muslim Mindanao (ARMM) "within the framework of the constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines." Through a plebiscite held in 1990, the provinces of Maguindanao, Lana del Sur as well as Sulu and Tawi Tawi voted to be included in the ARMM.

Yet the ARMM did not meet the aspirations of the Moro people and the move for broader autonomy for Muslim Mindanao continued throughout the 1990s and 2000s. The 1996 Peace Agreement between the Moro National Liberation Front (MNLF) did not significantly change the powers or boundaries of the ARMM. Serious clashes occurred in 2000, 2003 and 2008 with over half a million people displaced, and resumed peace talks came to a halt when the so-called Memorandum of Agreement on Ancestral Domain (MOA-AD), concluded between the Moro Islamic Liberation Front (MILF) and the Philippine government in 2008, was declared unconstitutional by the Philippine Supreme Court by a narrow margin of 8-7. Signed on 15 October 2012 between the Philippine government and the MILF, the so-called Framework Agreement on the Bangsamoro

(FAB), constituted a major breakthrough to end the armed conflict as well as to finally find a political settlement that addresses the root causes of the conflict.

The Comprehensive Agreement on the Bangsamoro completes the FAB and its Annexes. Building on the consensus that the status quo was no longer acceptable, the two parties agreed to replace the ARMM with a new autonomous political entity in Muslim Mindanao with “more powers, more territory, and more control over resources” (International Crisis Group 2011, 1). It maps out a multi-step process to create this entity, to be called “Bangsamoro,” by the end of President Benigno Aquino III’s term in 2016. While the parties agreed on provisions regarding power-sharing, transitional arrangement and modalities, wealth sharing and on normalization, obstacles abound, there is a basic disagreement as to how the future status of the Bangsamoro will be legally constituted.

Unlike the government, the MILF prefers to have the status of the Bangsamoro incorporated via a constitutional amendment, presumably to assure that it cannot be lightly renounced by a future government as only an agreement between the Aquino government and the Bangsamoro, although they realize that a constitutional reform runs the risk of defeat in a nation-wide referendum. The GPH, on the other hand, would prefer to avoid a long constitutional debate and thus enact the Bangsamoro Basic Law (BBL) through implementing legislation. Notwithstanding President Aquino’s present popularity, implementing legislation could be opposed in Congress and challenged for its constitutionality before the Supreme Court. Indeed, even though both parties have been very careful to avoid the possible pitfalls that led the Supreme Court to place a moratorium on the MOA-AD in 2008 and to declare it unconstitutional, the key question is whether there are provisions in the FAB, in its annexes and in the BBL, soon to be drafted by the Transition Commission, that will raise constitutional challenges and whether or not constitutional amendments should be sought to forestall that possibility. While the government negotiators naturally cannot explore solutions to the conflict beyond the limits set by the constitution, has the current agreement been worked out so carefully that any challenges are likely to fail to be sustained by a majority of the court?

The remainder of this essay analyzes how constitutional issues affect the current attempt to resolve the conflict in Mindanao. The importance of clearing obstacles to the FAB and its annexes, including the constitutional issues, hardly needs to be explained.

The failure of the MOA-AD resulted in an upsurge of violence leading to some 750,000 people being displaced from their homes in Mindanao (Cagoco-Guiam 2013, 5).

### **The Comprehensive Agreement on Bangsamoro and the Philippine Constitution**

From a purely tactical perspective, the MILF could never sign anything that would represent a step back from the MOA-AD, which until 2008 was arguably the best deal that the MILF was ever going to get. Likewise, given that both parties agreed in 2012 that “the status quo was unacceptable” (FAB, chapter I, para. 1), this consensus required that any serious peace negotiations would have to result in a qualitatively higher form of self-determination and self-governance than the level of the ARMM. The 1987 Philippine Constitution (art. X, section 1) allows for “autonomous regions in Muslim Mindanao and the Cordilleras;” however, creating an entity to replace the ARMM in the context of previous MILF demands for a sub-state in place of the present autonomous region has created suspicion as to what extent the MILF still seeks full independence.

It is worthwhile to look at the MOA-AD in this respect. It defined an “ancestral domain” as the “Bangsamoro homeland,” established Bangsamoro Juridical Entity (BJE) and introduced an “associative relationship” between the BJE and the central government which shall be “characterized by shared authority and responsibility with a structure of governance based on executive, legislative, judicial and administrative institutions” (MOA-AD, chapter on “Governance,” para. 4). While the Philippine Constitution (art. X, section 1) states that provinces, cities, municipalities, and *barangays* shall be the territorial and political subdivisions of the state, the above wording evoked fears that this could eventually lead to an independent Bangsamoro nation-state within the Philippines. The vague wording and perceived threat to national sovereignty and territorial integrity to the Philippine Republic were important substantive reasons why the MOA-AD was declared unconstitutional. While the FAB (chapter I, para. 4) provides that “the relationship of the Central Government with the Bangsamoro Government shall be asymmetric,” it is not clear how this differs from the MOA-AD as the FAB does not define what exactly the Bangsamoro entity is. It appears that only a revision of Article X of the Constitution would allow “Bangsamoro” to be defined as a “sub-state,” a “federated state” or an “associative state.” Precisely for this reason the GPH insisted in

the negotiations on avoiding any such terminology that might evoke the possibility that autonomy for the Bangsamoro could turn into independence at some time in the future.

The Framework Agreement also arouses constitutional questions with regard to several other issues, including the Bangsamoro's expanded shari'a justice system, its proposed form of government, and most importantly, its armed force. Article X (section 18) of the Constitution allows for "special courts with personal, family and property law jurisdiction consistent with the provisions of this Constitution and national laws." The parties agreed in the FAB (chapter III, para. 3, 5) to "strengthen the Shari'ah courts and to expand their jurisdiction over cases" with "the Bangsamoro [having] competence over the Shari'ah justice system" and the future BBL promoting "the expansion of the jurisdiction of the Shari'ah courts." Thus, while commercial contracts may soon be governed by shari'a law, the Constitution limits the extent as to which shari'a law can be expanded to other sectors, such as criminal law. Likewise, the Constitution stipulates that all courts are subject to rulings by the Supreme Court and that the administration of justice is located at the central level. The relationship between national legislation, such as the National Code of Muslim Personal and Family Law, which applies to all Muslims in the Philippines, the FAB and the future BBL may also result in disputes over competence and prerogatives.

The government of the Bangsamoro shall be of ministerial form with its chief executive coming from and accountable to the Bangsamoro legislative assembly (FAB, chapter I, para. 2). Although the Constitution specifies a presidential system of government on the national level, it does not have the same prescription for local governments. However, in addition to reserved powers for the central government and concurrent powers shared by the central government and the Bangsamoro government, the FAB (chapter IV) will grant exclusive powers to the Bangsamoro in the areas of taxation, availment of funds and the creation of wealth and a say in the utilization, development and exploitation of natural resources within its territory.

The insistence of the MILF on truly exclusive powers will be difficult to reconcile with the Constitution, which provides that any law is subject to either the Constitution itself or national legislation. Thus, even if the Bangsamoro legislative assembly legislates in a field in which, according to the FAB, it has exclusive powers, Congress would have

the right to review and override legislation. While according to the Constitution (Art. X, section 5), taxation does not require constitutional amendments as Congress can simply expand, or limit, the powers and rights of the ARMM or Bangsamoro by mere legislation, the exploitation of natural resources and ownership of land is an entirely different matter. Article XII (section 2) states that “all lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.” And that State is none other than the Republic of the Philippines. Not surprisingly, the regalian doctrine is unacceptable to the MILF because the Moro people trace their marginalization from exactly this traditional system of the state’s land policies, which they describe as internal colonialism (Malang 2014). The Annex on Revenue Generation and Wealth Sharing stipulates that revenue generated from the exploitation of non-metallic minerals, metallic minerals and fossil fuels within the Bangsamoro, shall pertain to the Bangsamoro to one hundred percent, seventy-five percent and fifty percent, respectively (chapter 1, para. 1-4). While the Constitution gives Congress the right to decide on how state revenues are divided and allocated to the territorial and political subdivisions of the state, the fact that neither the FAB nor the annexes contain a reference to the regalian doctrine could arise before the Supreme Court and be cause for future conflict.

According to the Philippine Constitution (art. XVI, section 6), “the State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law.” While “the preservation of peace and order within the regions shall be the responsibility of the local police agencies (...), the defense and security of the regions shall be the responsibility of the National Government” (art. X, section 21) and “the President shall be the Commander-in-Chief of all armed forces of the Philippines” (art. VII, section 18). The Constitution thus does not allow for regional law enforcers separate from the Philippine National Police, or even a Bangsamoro army in charge of handling overall security, beyond the authority of the President. The Annex on Normalization (chapter A, “Policing”) prescribes the decommissioning of the Bangsamoro Islamic

Armed Forces (BIAF), the armed wing of the MILF, and redeployment of the Philippine Armed Forces (AFP). This process will be overseen by a Joint Peace and Security Committee.

Yet, the Annex on Normalization also envisions the establishment of a police force for the Bangsamoro (chapter A, “Policing”). While this police force shall be responsible to both the central government and the Bangsamoro government, the precise set-up of such a force is left to be decided by an Independent Commission on Policing established by the two negotiating panels. In addition to the Bangsamoro police force, Joint Peace and Security Teams composed of members of the AFP, the Philippine National Police and the BIAF shall be responsible for the maintenance of peace and order in designated areas during the transition period and until a Bangsamoro police force is “fully organized and operational” (chapter B, “Transitional Components of Normalization”). Skeptics rightly question the constitutionality of these provisions without charter change.

The parties agreed to determine the geographical scope of the new Bangsamoro entity through a plebiscite in the envisioned core territory of the Bangsamoro before the general elections in 2016, but after Congress passes the BBL (FAB, chapter V, section 1-3). Accordingly, the plebiscite will be held in the current ARMM provinces and Marawi City; the cities of Cotabato and Isabela; the six municipalities in Lanao del Norte that voted for inclusion in the ARMM in the 2001 plebiscite (Baloi, Munai, Pantar, Nunungan, Tagaloan, Tangkal); and the *barangays* in six municipalities of North Cotabato province that likewise voted for inclusion in 2001 (Labacan, Carmen, Aleosan, Pigkawayan, Pikit and Midsayap).<sup>6</sup> Other contiguous areas where there is a resolution for inclusion from the local government unit or a petition of at least ten percent of the qualified voters may also join after the requisite plebiscite. The Constitution (art. X, section 15) states that autonomous regions can consist of “provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics;” it does in fact not provide for *barangays* to be a constituent unit of an autonomous region.

---

<sup>6</sup> Republic Act No. 9054, “An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, amending for the Purpose Republic Act No. 6734,” 31 March 2001.



Given the fact that the parties could not specify what the Bangsamoro entity actually is, letting the people in all provinces and territorial sub-units decide whether they will join the Bangsamoro or not may be the best way forward. However, if the present geographical area of the ARMM is to be treated as one region or as five provinces in the plebiscite is unclear. In the latter case, it is not guaranteed that all of the provinces will actually become part of the Bangsamoro (SAIS group meeting, 22 January 2014).

Finally, the Constitution (art. X, section 17) stipulates that “all powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.” If anything in the future BBL suggests the contrary or challenges the president’s power to exercise general supervision over local governments (art. X, section 4), this will be in direct violation of the Constitution and will inevitably lead to the collapse of the peace process.

### **Changing the Philippine Constitution**

It is the assertion of the MILF that the Philippine Constitution is at the root of some of the core Bangsamoro grievances and that it has led to the political, economic and social marginalization of the Bangsamoro people as a whole. They point out that attempts to solve the Mindanao conflict and achieve self-determination for the Bangsamoro within the framework of the current constitution have failed. More importantly, they will continue to fail since resolving a conflict through the parameters imposed by the very same document that contributed to the conflict in the first place proves elusive (Malang 2014). The Bangsamoro therefore demand the “rules of the game” to be changed, as well as constitutional guarantees for the enhanced status.

The government, on the other hand, has to perform the balancing act of searching for a peaceful resolution of the conflict while abiding by existing laws and the constitution. Although the conflict parties have tasked the Transition Commission to work on proposals for constitutional reform,<sup>7</sup> in the government view, the terms of the agreement can be made without changing the present constitution if the relevant provisions apply “in the spirit of accommodation and flexibility” (Office of the President of the Philippines 2012). It claims to be fully committed to supporting the passage of the

---

<sup>7</sup> Annex on Transitional Arrangements and Modalities (2013), chapter 1, para. D.

BBL by Congress before the 2016 regular elections. However, if the BBL suffers the same fate as the MOA-AD, with the Supreme Court declaring its unconstitutionality, the president could well see an impeachment complaint being filed against him for culpable violation of the Constitution (art. XI, section 2). Whether the Supreme Court will in fact be asked to rule on the constitutionality of the BBL or will refrain from getting involved, remains to be seen. Yet, in previous rulings the Court has stated that judicial review of any law, treaty, executive order or presidential decree is not a power entrusted to the Court that can be used at discretion but is also a duty which cannot be abdicated for political reasons.<sup>8</sup> On the other hand, the Court's composition has changed since 2008, with Marvic Leonen, former Head of the Government Peace Panel and Dean of the University of the Philippines Law School, being appointed to the Court, thereby adding a strong advocate for the legality of the negotiated agreement to a prominent position on the Court.

There are two ways laid down in the constitution for its amendment: The Congress, upon a vote of three-fourths of all its members or a constitutional convention, can propose a revision or amendment of the constitution; alternatively, a people's initiative supported by "at least twelve percent of the total number of registered voters, of which every legislative district must be represented by at least three percent of the registered voters therein" can directly propose an amendment (art. XVII, section 1-2). Any amendment to, or revision of, the Philippine constitution requires ratification by a majority of the votes in a national referendum. Thus, even if the government would pursue a charter change to implement the FAB, it is debatable if it would be successful in mobilizing the levels of support in Congress as well as in a nation-wide referendum needed to change the constitution.

### **A way out?**

The Bangsamoro question will eventually have to be decided by politicians, not by lawyers. While the Philippine constitution should provide a framework for peace

---

<sup>8</sup> See Philippine Case Law, e.g. *Francisco Jr. v. House of Representatives* (10 November 2003); *Planters Products Inc. v. Fertiphil Corp.* (14 March 2008); *Mirasol v. Court of Appeals*, G.R. No. 128448 (1 February 2001).

negotiations, an understanding of the degree to which the constitution has contributed to the conflict in the first place is crucial to correct the historical injustice done to the Bangsamoro; an understanding of the extent to which the constitution complicates the current peace negotiations and poses an obstacle to out-of-the-box thinking and creative solutions is paramount, as it may well determine what negotiators in the Philippines can possibly achieve.

Besides constitutional and unconstitutional categories, a third way exists in the Supreme Court's distinction between unconstitutional and extra-constitutional acts. Accordingly, certain primarily political questions are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of the government.<sup>9</sup> Considering these cases as non-justiciable, the Supreme Court would refrain from ruling on the constitutionality of implementing legislation. While this will not give the MILF a constitutional guarantee of the enhanced autonomy for the Bangsamoro, it would pave the way for the BBL and, potentially, constitutional reform in the future.

A peace agreement is evidently a highly political document. Approaching the FAB from an extra-constitutional viewpoint, would free the negotiating parties from the “constitutional straightjacket” (Malang 2014) as they explore a way forward to solving the Bangsamoro question. Despite the political challenges ahead, there is a real chance that the peace process will succeed and the Bangsamoro will be established. According to President Aquino (2012), “the Constitution and lawful processes shall govern the transition (...) and this Agreement will ensure that the Philippines remains one nation and one people, with all of our diverse cultures and narratives seeking the common goal.” The present position of the MILF is that if the FAB is properly implemented, it could be an alternative to secession. However, a few decades from now, the Bangsamoro may well gain all the characteristics of a state: a defined territory, a thriving population, a functioning government, and international recognition. According to MILF Chairman **Al Haj Murad Ibrahim**, “Bangsamoro could be a permanent solution” (SAIS group meeting, 18 January 2014) How permanent remains to be seen. If, however, the Bangsamoro is

---

<sup>9</sup> See Philippine Case Law, *e.g.* *Estrada vs. Desierto*, 353 SCRA 453 (2 March 2001); *Lozano vs. Aquino* G.R. No. 73748 (22 May 1986).

not established and the MILF deal falls through, the resulting frustration and anger among Muslim rebels could well mean the resumption of all-out civil war in Mindanao.

## **Recommendations**

### To the Philippine Government

- **Understanding the extent to which the constitution has contributed to the Mindanao conflict** and adopting an extra-constitutional viewpoint would free the negotiating parties from the “constitutional straightjacket” in which they currently find themselves, **the government should perceive the FAB as a forward-looking agreement.** This would ensure that both sides have a stake in maintaining the agreement. The government should understand that not autonomy, but the abrogation of autonomy, is the stepping stone for full independence.

### To the MILF

- **The MILF should realize that the FAB is Mindanao’s best chance yet,** while at the same time it is acceptable to Manila. In order to demonstrate their commitment to a negotiated peace, **it should therefore fulfill the promises made rapidly and clearly communicate its commitment to the territorial integrity of the Philippines to its Mindanao audience,** while pursuing the internal reforms necessary to take on responsibility for governance.

# **The Role of Women in the Peace Process**

**Akhila Raman**

In the years since the UN Security Council adopted Resolution 1325, focused on actively involving women in peace-building activities, few significant efforts have been made to incorporate women in the peace process in non-traditional ways. Conflict resolution programs must incorporate the input of women stakeholders in order to better improve outcomes during the peace process. The experience of both women and men is deeply linked to diverse systems of culture, which defines each gender's capacity. "An analysis of the gendered dynamics of power in conflict contexts is fundamental to identifying opportunities and parries to effective participation of men and women when designing and implementing programs" (Dwyer and Cagoco-Guiam 2010, 4). Understanding the gender dynamics in the Philippines, and in particular in Mindanao, is fundamental in forming recommendations for key agents in regard to improving the participation of women in conflict programming and the peace process.

In 2010, the Government of the Philippines instituted a National Action Plan on Women, Peace and Security as a response to Resolutions 1325 and 1820 of the UN Security Council. The Action Plan aimed to bring together women from various organizations and backgrounds in order to develop a comprehensive set of goals for mobilizing women and gender perspectives in peace-building and conflict mitigation activities. Though the Action Plan laid out various goals, and "places the Philippines at the forefront of acknowledging the importance of gender and conflict issues," a plan for implementation was missing.

## **Gender Dynamics in Mindanao**

The conflict in Mindanao, the second largest island in the Philippines, dates back to the 16<sup>th</sup> century. Though demographics have changed over time and a Final Peace Agreement was signed in 1996, the strife of the Moro people continues today. Armed conflict between opposition groups and clan conflict hinders the daily lives of people living in Mindanao. Further adding to the problem, the high levels of poverty and limited social mobility fuel conflict because "it remains clear to most ARMM residents that their

poverty is not a natural condition...but rather the result of political choices...encouraged by deep-rooted discrimination toward ethnic Moros and their adherence to Islam” (Dwyer and Cagoco-Guiam 2010, 7-8). This discrimination is a significant part of the women’s experience within the context of the crisis in Mindanao.

The experience of Moro women in the Philippines has for the most part been ignored during discussions about the peace process. When discussing the links between local and national conflicts, “women are often viewed largely in passive terms, such as when they become the pretext for clan conflict in cases of adultery or elopement or sexual harassment, with these perceived insults to women proving the pride and rage of men” (Dwyer and Cagoco-Guiam 2010, 8). The view of women in conflict seems to be narrow and incomprehensive, though women are involved in civil society, government and combat. Though they hold various positions, discussions about the conflict seem not to emphasize how to involve women in politics, or the peace-building process. Within the overall context of socio-economic problems in Mindanao, Moro women face various forms of oppression and discrimination. Furthermore, in the context of the Code of Muslim Personal Laws and of Islam in general, the rights of women are determined by traditional and cultural practices. It should be noted, that while in Mindanao it was apparent that though Islamic women were not able to participate at high levels of government, they were heavily involved in advisory and lobbying roles. This participation counters the general stereotype that women are always marginalized in Islamic groups.

Women are disproportionately affected by the impact of conflict both personally and due to the impact of conflict on men. In response to the questions *what are the women in the communities facing on a regular basis? Is there gender-based violence?* posed during an interview with Froilyn Mendoza, the Indigenous People’s (IP) Women Representative to the Bangsamoro Transition Commission (BTC) (SAIS group meeting, January 2014), she stated,

There is high incidence of rape cases in the hinterlands; especially in my village... there are also reported cases of incest and rape. The authorities, even at the *barangay* level of governance lack the understanding of their obligation as primary duty bearers. There is also a high risk among women

who are supposedly women's right defenders because of their lack of protection from possible apprehension of perpetrators and this issue has been kept silent especially in the remotest *barangays*. According to the women one of the reasons for incidence of rape is that when liquor has been selling in their village and the rampant selling of illegal drugs.

The attacks against women in Mindanao stem from tensions between men and women, and discrimination, physical violence, and other risks continue to increase.

During conflict, men are highly restricted and are stifled by their lack of mobility. The burden falls on the women to fill positions traditionally held by men. Though they may have mobility, they are forced to travel for work, far from home, and are still vulnerable to the threats of violence in combat zones. This is tied into the economic burdens faced by women in Mindanao as well. Families cannot afford to invest money into futures; they are constantly trying to make it through the conflict and the ever-increasing economic hardship they are faced with. Ms. Mendoza, in response to the question, *What is the experience of women in conflict, and how does it differ from that of men?* stated,

Women usually think of all the small details and become micro managers. She has to think for the safety of her siblings, where to find their food, how to think of the medicine when children get sick in the evacuation center, where to owe money in times when one of her children has to be hospitalized, how to contact other families for help. She has also to struggle to stand in line so that she can access an ID so that when there are humanitarian aid drops then she can get food packs. For men they usually take care of the left property at home and about the safety of working animals and agricultural products (SAIS group meeting, January 2014).

Women are left with the responsibility to provide for the families and provide money for their husbands for arms in conflict. "When a family is involved in *rido*, men feel they must arm themselves with guns, purchase ammunition, and, if possible, ensure the family has transportation ready in case they need to flee" (Dwyer and Cagoco-Guiam 2010, 14). Women are responsible for working within their limited incomes to make sure that these various items can be purchased, while at the same time making sure there is money for

food, education, healthcare, and other daily necessities. The roles of men and women are deeply rooted in historical and cultural traditions, where religion plays a significant role as well. For this reason, involving women in conflict resolution would mean transforming the roles (and views of these roles) of men and women in Mindanao.

### **Peace-building Activities and the Role of Women**

It is important to note that gender relations span a wide range of social divisions created by differences in class, race, ethnicity, religion, etc. In order to fully integrate women into the peace-building activities and the conflict mitigation process, gender relations in varying contexts must be understood in order to determine the various actors, and their roles. As women are being given more mobility in Mindanao, they have a greater opportunity to speak out against violence and work to end the conflict. “Widowed heads of households, or young women forced to survive on their own, may find the social space to experiment with peaceful means of resolving conflict in their communities” (Dwyer and Cagoco-Guiam 2010, 21). Drawing upon their own experiences during war, they can work together to make sustainable, progressive, peaceful contributions to the peace-building process.

In the Philippines, among the Moro and other ethnic groups in Mindanao, the power of women is undeniable. Women in the Autonomous Region of Muslim Mindanao (ARMM) are encouraged to pursue roles outside the domestic sphere, including the pursuit of an education. For years, women have participated at a community level in various organizations and mediations. An important feature however, is that many of the women who are able to participate in such activities belong to families that come from a higher sector of society, and have a better level of education. “Traditionally, conflict mediation has been carried out by women who already hold positions of respect within communities. In areas of the ARMM where traditional sultanates still hold power, aristocratic women may be called upon to help resolve local conflicts, their prestige giving weight to their work” (Dwyer and Cagoco-Guiam 2010, 22). Though it is significant that women participate in mediations in small-scale disputes, their role in peace-building needs to shift from being solely focused on small community conflicts, to



include Track One negotiations as well. Women can be used as a valuable asset in key negotiations, being the liaison between conflicting parties or other officials.

There are tools set in place to increase the participation of women in Track One processes; the main document being UN Security Council Resolution 1325. The resolution passed unanimously in 2000, setting in place international standards for the increased participation of women in formal peace processes. The following excerpts from Resolution 1325 outlines some of the main points for involving women and girls in order to promote gender equality and development:

*Recognizing* the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regarding *noting* the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations.

*Recognizing* that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security.

*Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional, and international institutions and mechanisms for the prevention, management, and resolution of conflict.

*Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard *calls on* Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster.

*Expresses* its willingness to incorporate a gender perspective into peacekeeping operations, and *urges* the Secretary-General to ensure that,

where appropriate, field operations include a gender component. (United Nations Security Council 2000)

By implementing the recommendations of Resolution 1325, Member States can bring gender to the forefront of conflict management.

Only when women are included in these processes can Member States and international institutions truly make changes that impact and promote the security of women. There needs to be a systematic progression towards incorporating women in a meaningful way in peace-making processes. They must have a genuine voice, through formal-decision making roles, in regards to peacemaking and security development. This can be achieved by making women not only more visible in the aftermath of conflict, but also through dialogue and social development (Raman 2013, 5).

Resolution 1325 recognizes that women, and men, need to contribute equally to negotiations, mediations, technical committees, and in other forums. They need to be present at the Track One negotiations in order to facilitate their own demands and implement gender-sensitivity at all levels of conflict management.

Currently, women are provided the opportunity to participate at the peace table providing memos and short summary papers which outline their demands and goals. Many times, these demands are not brought up in negotiations until various drafts of Peace Accords have already been drawn up. It is not uncommon to see a lack of inclusion of laws against sexual violence, economic violence, or political violence against women in the Peace Accords (UN Women, 2012). There are key areas in which attention to Resolution 1325 could help reduce the gap between men and women in negotiations, in order to ensure a sustainable, inclusive, peace process. In Mindanao, especially on the Bangsamoro Transition Commission (BTC), women are highly involved in drafting the framework agreement and basic law. The BTC has four women members, all of whom come from women's organizations active in Mindanao. They work to consolidate provisions with organizations and in the framework agreement for the meaningful participation of women in governance.

## **Recommendations to Make the Peace Process Inclusive**

The following recommendations are proposed to key actors who participate regularly in the ongoing peace process and transition in Mindanao. They do not focus simply on increasing the number of women who participate in peace-panels and other discussions, but rather on how to better incorporate gender issues in negotiations and allow women to actively develop strategies for increased participation at every level of conflict mediation.

### To All Key Actors

- **Work to increase advocacy for the participation for women at all negotiations, especially Track One**, in accordance with the UN Security Council Resolution (UNSCR) 1325 and the Philippines' National Action Plan for Women.
- **Form groups that include women from various levels of the population** and hold trainings about how they can become involved.
- **Advocate for the involvement of women at various levels of negotiation and ensure their familiarity with UNSCR 1325, The National Action Plan**, and other documents, which aim to increase the participation of and representation of women in peace-building operations.
- **Create, and encourage participation of women in all-women negotiating parties** in order to provide women with a forum to discuss ways in which to improve the lives of women and to develop a group that is able to openly communicate their demands and goals with other negotiating teams.
- **Allocate more funds to support women's groups, community activists, NGOs and other organizations working to end gender-based violence and ensure the safety of women.**
- **Work together with women's networks and other key actors** to promote a unified vision and set of interests or demands.
- **Hold educational workshops** in urban and rural areas to increase the knowledge of all people about UNSCR 1325 and the National Action Plan. This will aid in helping women increase their understanding of their rights and also in the creation of a unified set of objectives for women's organizations.

To the United Nations and other International Agencies

- **Develop a standardized framework and protocol for increased participation of women in politics, civil society groups and other organizations.**
- **Automatically involve women from the beginning of any peace process**, not as an afterthought later in the game.

To the Government of The Philippines

- **Include women in the drafting process of all current and future bills, accords, or framework agreements.** The group of women should be comprised of elected consultants from various *barangays*, conflict affected areas, civil-society organizations, and government agencies.
- **Women should be appointed in senior-level positions in all commissions and government-related offices.** These women should of course be qualified for the position, but by providing positions for them at a high level, the likelihood of their input being considered increases exponentially.
- **Ensure that there are adequate avenues and opportunities available to women** in order to participate in “policy formulation, planning, organization, implementation, management, monitoring, and evaluation of all programs, projects, and services” (Office of the President 2010, 2) in accordance with the Republic Act No. 9710, The Magna Carta of Women.
- **Ensure that “The State shall provide incentives to political parties with women’s agenda.** It shall likewise encourage the integration of women in their leadership hierarchy internal policy-making structures, appointive, and electoral nominating processes” (Office of the President 2010, 12) in accordance with the above stated Republic Act.
- **Review current policies and pieces of legislation to ensure that the rights of women are not being denied**, and to ensure that the safety of women is protected.
- **Provide psychological support for women in conflict zones** and ensure that staff is properly trained to deal with cultural and religious differences in order to provide effective care for women.

- **Engage in gender sensitive monitoring and capacity building** for conflict prevention.

To the MILF, Executive Council of the ARMM, and BTC

- **Incorporate women into the policing mechanism** in Mindanao.
- **Support the participation of women in monitoring of ceasefire mechanisms.**
- **Be committed to the inclusion of women in community-level processes,** and provide them with protection and assistance in order to bolster their work towards developing sustainable peace.
- **Address the social inequalities and gender issues that lend themselves to greater conflict** in Mindanao, and incorporate them into agreements.
- **Conduct gender awareness and sensitivity trainings for both men and women who are part of negotiations and civil society organizations** in order to ensure standards of good practice and increase transparency.
- **Conduct regular needs assessments** in order to understand further the situation of women and girls at various stages of the armed conflict in order to properly address these needs.
- **Ensure that women have meaningful political participation and be free from all forms of violence,** in accordance with the Framework Agreement on the Bangsamoro.
- Further **define what is meant by “meaningful political participation”** and outline ways in which each key actor can help create women’s networks both at the Track One and Track Two levels in order to aid in the peace process.
- **Strengthen women’s civil society groups** in order to provide them with a stronger foundation for negotiation and mediation.

## **Conclusion**

On a daily basis, women around the world are entering spaces traditionally limited to men. Women have increasingly become more active as catalysts for change and peacemakers at the community level. It is important for regional and national governments to involve women in peace-making processes and include them at the peace

table. In order to ensure the meaningful political participation of women after the peace process in Mindanao, all key actors must be held responsible for implementing, monitoring, and evaluating the effectiveness of UNSCR 1325. Increasing inclusivity of women does not mean that there is none currently. The Government and Peace Panel represent women in significant ways. More women are engaged on a daily basis and UNSCR 1325 is being taken more seriously in the Philippines than in other conflict zones.

The armed conflict, fueled by discrimination, continues to marginalize various levels of the population, especially women. In order to aid in overcoming poor governance, injustice, and violence, it is essential to increase the spectrum of women involved in the peace process. By incorporating women into government and civil society organizations they can facilitate negotiations, aid in mediation between conflicting groups, and address issues in terms of essential services, humanitarian aid, and capacity building for the future.

The role of women is not limited to participating politically, but also in sustaining their families throughout the conflict. In Mindanao these differing roles are especially visible. Women associated with the MILF are an important part of their communities as they help to create an environment that allows everyone in the MILF to feel attached to aspects of everyday life. They have the capacity to increase peace building and reconstruction in their communities, promote peace amongst the youth, and help ex-combatants transition during the normalization process. The National Action Plan and the Framework Agreement on the Bangsamoro should be used as pathways to inclusivity of women in the transformation process, and provide them with the agency necessary to be promoters and builders of peace in their communities, Mindanao, and The Philippines as a whole.

### **Part III: Political Challenges in the Implementation of the Comprehensive Peace Agreement**





# **The Bangsamoro Transition Commission: Challenges in Fulfilling its Political and Confidence-Building Mandates**

**Michelle Thompson**

The signing of the Framework Agreement on the Bangsamoro, along with the painstaking drafting and negotiations of the Four Annexes on Transitional Arrangements and Modalities, Revenue Generation and Wealth Sharing, Power Sharing, and Normalization, have facilitated a vital paradigm shift in the relations between the Moro Islamic Liberation Front (MILF) and the Government of the Philippines (GPH). Through the principles agreed upon in the Agreement and the Annexes, the conflict is slowly, but surely, shifting from armed struggle to political negotiation. Learning from the failures of past agreements, the MILF and the GPH have taken care to outline explicitly the steps transitioning away from the Autonomous Region of Muslim Mindanao (ARMM) and toward the creation and operation of the Bangsamoro autonomous political entity. The Bangsamoro Transition Commission is one of four critical bodies dedicated to the realization of an autonomous and sustainable Bangsamoro political entity.

The Agreement and Annexes specifically address matters of autonomy, outlining political leadership arrangements, the asymmetric relationship between the Bangsamoro and the GPH, and resource allocations for the Bangsamoro. However, the sustainability of the Bangsamoro relies not only on the constitutionality and political viability of the entity, but also with community ownership of the transition and meaningful inclusion in the resulting political entity. In accordance with President Aquino's Executive Order and the Annex on Transitional Arrangements and Modalities, the Bangsamoro Transition Commission (BTC) is explicitly mandated to draft the Bangsamoro Basic Law (BBL) – the law that, upon ratification by Congress, will serve as the “charter by which the Bangsamoro shall be governed” (Autonomy & Peace Review 2013, 11). However, as a body created to support the creation of a viable and sustainable Bangsamoro, the Commission is also tasked with the confidence-building mandate of utilizing the process by which it drafts the law to widen ownership of the transition among the constituents of

the proposed areas. While the mandates are certainly not mutually exclusive, a number of factors concerning the inclusion of diverse voices and the timing of the transition process have complicated the Commission's ability to fulfill both of its mandates.

The following discussion will provide an overview of the Commission's dual mandates. Then the chapter will discuss the challenges the Commission faces in fulfilling both the political and confidence-building mandates. Lastly, the chapter will outline recommendations for the various stakeholders in the transition process.

### **Dual Mandates**

The Bangsamoro Transition Commission is a critical component to the transition process. As the drafters of the Basic Law, the Commission not only provides the charter of the Bangsamoro, but also sets expectations for the type and quality of governance that should be expected from the future political entity. As with all transitions from conflict, both actual policy and expectations for the future play significant roles in the implementation and sustainability of peace.

While the Commission's explicit mandate allows for a broad range of actions so that the body may effectively perform its functions, the executive order's emphasis remains on political viability. As important as the component of political viability is to the creation of the Bangsamoro, the legacy of "failed experiments"<sup>10</sup> like the ARMM in the minds of various communities also weighs heavily on the success of the Bangsamoro. In our meetings with the MILF (SAIS group meeting, 18 January 2014), officials consistently identified lack of confidence and lack of implementation as the most notable failures of past agreements. Thus, while the explicit mandate serves to cement the transition process into the political realm, a second, less articulated, mandate also needs to be fulfilled in order to embed the process and the Basic Law within the Bangsamoro community – the confidence-building mandate.

Signed into effect on 17 December 2012, President Aquino's Executive Order No. 120 provided for the creation, functions and guidelines of the Bangsamoro Transition

---

<sup>10</sup> In his speech on the Framework Agreement with the MILF, President Aquino states, "The ARMM is a failed experiment. Many of the people continue to feel alienated by the system, and those who feel that there is no way out will continue to articulate their grievances through the barrel of a gun." (OPAPP, October 2012)

Commission. Specifically, in Section 3 of the order, President Aquino outlines the explicit mandate of the Commission:

Section 3: Functions. The Commission shall have the following function:

- a. To draft the proposed Bangsamoro Basic Law with provisions consistent with the 2012 Framework Agreement on the Bangsamoro;
- b. Whenever necessary, to recommend to Congress or the people proposed amendments to 1987 Philippine Constitution;
- c. Whenever necessary, to assist in identifying and coordinating development programs in the proposed Bangsamoro in conjunction with the MILF Bangsamoro Development Agency (BDA), and the Bangsamoro Leadership and Management Institute (BLMI). For this purpose, the Commission may likewise coordinate with such other relevant government agencies and/or non-government organizations;
- d. To coordinate and conduct dialogues and consultations with the National Government and various stakeholders in furtherance of its functions.

The functions outlined articulate the Commission's political mandate: to produce a draft Basic Law that realizes the principles and terms set forth in the Agreement and Annexes and entrenches the proposed Bangsamoro entity firmly within the constitutional framework of the Philippines. However, with the complex history of the conflict, the political mandate must also be supported by confidence- and trust-building measures. In his introduction on the Transition Commission, Fr. Eliseo Mercado of Notre Dame University in Cotabato City (Autonomy & Peace Review 2013, 13) poignantly captures this dual obligation,

“No doubt, the Transition Commission has a tough task to win the hearts and minds not only of the members of the Philippine Congress to legislate a progressive, equitable and MORE empowering Basic Law, but also of the wider constituency in the Bangsamoro that the new political entity is for ALL.”

While not specifically stipulated in the transition documents, Fr. Mercado's comment, along with our interviews with civil society representatives, demonstrate that

stakeholders expect and need more from the Commission than the fulfillment of the explicit, political mandate. With its focus on the constituents who will populate the Bangsamoro political entity, the confidence-building mandate tasks the Commission with convincing prospective constituents, through dialogue with diverse stakeholders and incorporation of the results of those dialogues, that they are the drivers of the transition to the Bangsamoro so that the political entity will include and serve their needs.

The confidence-building and political mandates go hand in hand; together, they reinforce the transition process and the creation of a sustainable Bangsamoro. The following section delves into some of the challenges the Commission has faced and continues to face in trying to attain both objectives.

### **The Matter of Inclusion**

The envisioned areas of the Bangsamoro include a variety of ethnicities, Muslims and non-Muslims, and a host of communities that have been historically marginalized from active political participation. The future of the Bangsamoro rests not only on the incorporation of these voices into the Basic Law, but also on a majority of the prospective constituents buying into the transition to political negotiation and the Bangsamoro entity. There are two elements of inclusion that weigh heavily on the Commission's ability to fulfill both its political and confidence-building mandates: groups represented in the BTC and the mechanisms through which the Commission seeks out and addresses the needs and concerns of the community, especially of vulnerable groups, such as women, indigenous peoples and areas that do not wish to be included in the Bangsamoro. While the Commission has made considerable efforts to gain feedback from prospective constituents, MILF control of the transition process has limited the scope of inclusion.

In the completion of its functions, the Executive Order mandates that

“The Commission shall ensure transparency, inclusivity and utmost professionalism in the performance of its mandate, and shall provide for appropriate and effective mechanisms for consultations with all stakeholders, as may be warranted”.<sup>11</sup>

---

<sup>11</sup> Section 7, Executive Order No. 120, signed 17 December 2012, Malacañan Palace Manila.

In the SAIS meeting with the Commission, the commissioners present were eager to share their execution of multiple public hearings, in which the Commission directly received feedback from a number of communities. Indeed, the large and diverse civil society community has been quite active in meeting amongst themselves to structure their concerns and also providing clear, actionable steps to the Commission. A total of seventy-two consultations have been conducted. The Zamboanga-based organization, Nisa al Haqq fi Bangsamoro, conducted consultations from 29-31 August 2013 with Moro women on their concerns on the application of shari'a law in the Bangsamoro, guaranteeing women's political participation, and the application of UNSCR 1325 in the ongoing peace and reconciliation processes. The organization then presented their findings to the Commission.<sup>12</sup> Moreover, the Mindanao Civil Society Organizations Platform for Peace (MCSOPP) held a peace summit 10-12 February 2014, themed "Identifying Synergies for Enhanced Cooperation and Coordination in the Transition Period." The summit brought around two hundred civil society leaders and members of the Transition Commission to identify common concerns and draft plans for how civil society and the Commission can work together to include all stakeholders.

Consultations open a space for interactive dialogue, which is a necessary component for constituents to feel represented and heard. The Commission has shown considerable success in letting community needs drive their agenda. The formation of the work plan and timetable of the Committee on Transitory Provisions, Amendments, Revisions and Miscellaneous Matters demonstrates how the Commission works as a mechanism for participation and inclusion. Headed by Commissioner Johaira Wahab, the committee derived their main topics of deliberation, namely the plebiscite, the Bangsamoro Transition Authority (BTA), the transition of the bureaucracy, and possible amendments to the constitution, from a survey of a sample of constituents. The order of their agenda also follows the urgency with which constituents presented their concerns. Moreover, the process of participating in committee hearings is rather transparent. In its guidelines for participation, the Commission states, "any group (through its representative) or individual who wishes to deliver an intervention is requested to register

---

<sup>12</sup> MILF Central Committee on Information Official Website. <http://www.luwaran.com/>. Accessed 10 February 2014.

with the Secretariat before the start of the session.”

Furthermore, negative feedback has proven especially informative for the Commission. Just as recently as 13 February 2014, Philippine newspapers reported on the negative reception Commission members received at a Zamboanga public hearing. With boos and raucous behavior, attendees, including the mayor of Zamboanga City, Maria Isabelle Climaco-Salazar, made clear their continued opposition to being included in the proposed political entity. As Mohagher Iqbal, chief negotiator of the MILF and Commission chairman, stated, “Engaging the people is very important. We don’t have the monopoly of knowledge. We want to refine the Bangsamoro Basic Law. We want to factor in everything that is really coming from the feedback from the people” (*Philippine Daily Enquirer*, 13 February 2014).

The membership and leadership of the Commission, on the other hand, has raised concerns over inclusivity. The Annex on Transitional Arrangements and Modalities clearly states:

Article II, Section A – “1. The TC shall be composed of fifteen members all of whom are Bangsamoro. Seven members shall be selected by the GPH and the Moro Islamic Liberation Front shall select eight members, including the Chair. 2. The TC will serve as the central transitional mechanism for the MILF’s participation in the joint tasks required under the FAB.”

In the various SAIS meetings with the Commission, MILF and Bangsamoro Islamic Armed Forces (BIAF), officials emphasized, “Bangsamoro includes non Muslims” (SAIS group meetings, 18-19 January 2014). However, in those same meetings, a clear definition of whom and what is considered Bangsamoro could not be given. This ambiguity does not serve to assuage the fears of minority communities in the proposed Bangsamoro areas, such as Christians and Indigenous Peoples. Three communities are represented in the BTC: Muslims, Christians and Indigenous Peoples. The BTC also includes four women of various backgrounds. However, despite these figures, fears that the Commission’s deliberations will be dominated by a specific Muslim, male agenda persist (*Edge DAVAO*, 8 March 2014).

Lastly, the BTC and possibly the Transition Authority are heavily entrenched in the MILF. Looking at Item 2 in the selection above, the Annex explicitly names the Commission as the mechanism for MILF participation in the transition process. Even though the MILF has been at the forefront of the negotiations with the government, it is not only against the principle of inclusion, but also harmful for the sustainability of the Bangsamoro project, to exclude voices outside of the MILF from governance. The proposed Bangsamoro areas also include areas with affiliations to the MNLF, the group with whom the GPH had a peace agreement in 1996. Moreover, in our meeting at Camp Darapanan, officials of the MILF firmly stated that the Transitional Authority will be led by the MILF, with the leadership positions determined by the MILF central committee (SAIS group meeting, 18 January 2014). However, the GPH has not conceded to a MILF-dominated Transition Authority. As the second critical body in the transition process and dedicated to the realization of an autonomous and sustainable Bangsamoro political entity, the composition of the Transition Authority should also reflect the principle of inclusivity.

### **Timing**

The timing constraints of the transition process also play a role in how well the Commission can fulfill its mandates. The BTC faces both organizational and political time constraints. The Commission faces a rigid internal timetable. As dictated in the Agreement and the Annexes, the transition period is limited to three years. The Transition Commission, commissioned in 2013, will be in place until 2015, by which time the Basic Law is expected to pass through Congress. Once the Basic Law has been passed, the Commission will expire and be replaced by the Transition Authority until 2016, and the Bangsamoro government is slated to take hold in 2016, after elections. This tight schedule allows little time for the Commission to find its way and comprehensively incorporate the feedback it receives from consultations.

Moreover, the peace process has made great strides under the leadership of President Benigno Aquino. Expending copious amounts of time and political capital on forging peace, the President is eager to finalize the political framework of the peace process. Since Philippine presidents are confined to one term of six years, stakeholders in

the peace process fear that a new administration may not prioritize the peace process or may reverse some of the concessions made under the Aquino administration. There is pressure on the Commission from Manila to civil society organizations to sustain the momentum from the signing of the Annexes, with the Annex on Normalization passed on 25 January 2014. Various parties in Manila, from President Aquino to Philippine legislators, have announced their eagerness to receive and pass the Basic Law.<sup>13</sup> *Philstar* newspaper, along with other Philippine media, frequently report on the President and other legislators promising “to make a way” (10 February 2014) for the passage of the Basic Law and eagerness to receive a draft. The Commission has given itself the deadline of end of April/May 2014 to submit the draft to the President. The Commissioners present at our meetings seemed confident that they would meet the deadline, however, with the complexity of issues at hand and the issue remaining to be settled, such as the composition of the Transition Authority, constitutional amendments and the guidelines for the plebiscite, such a deadline may be too ambitious.

## **Recommendations**

### For the GPH

- **Refrain from rushing the submission of the Basic Law and over-selling the quickness with which the law will be passed.** While raising expectations for the peace process is a commendable project, overly ambitious expectations can be as, or more dangerous than indifference toward transition and peace.

### For the Transition Commission

- **Continue to hold public forums and consultations with and incorporate into the Basic Law the concerns of constituents from varying interest groups,** especially with groups that may be potential spoilers to the creation and operation of the Bangsamoro (indigenous peoples, those associated with the MNLF, areas that have shown hesitation or unwillingness to join the autonomous region).

---

<sup>13</sup> Some groups are particularly upset with Manila’s eagerness, however. The MNLF has publicly criticized the Aquino administration for prematurely moving the transition process along. *Manila Standard Today*, Accessed 15 February 2014.



For the MILF leadership

- **Invite MNLF and BIFF participation in the peace process and consultations with the Transition Commission.** While the MNLF and BIFF may endorse positions that differ from the MILF, the concerns and interests of MNLF and BIFF proponents should be treated as valid concerns. Just as joint mechanisms served to build trust and confidence between the MILF and GPH, participation in the peace process and consulting the BIFF and MNLF in the drafting of the BBL can serve to bridge differences between the groups.

For the Third Party Monitoring Team (TPMT)

- **Continue to consult with communities outside of the proposed Bangsamoro areas and share their concerns with the Transition Commission.** The creation of the Bangsamoro will affect both the areas included in the proposed areas and those omitted. With the limited time allotted to the Commission to incorporate the diverse needs of various groups, the TPMT's consultations serve to alert the Commission to any gaps in their own consultations and deliberations.



# **Future Relations Between the Bangsamoro and the Government of the Philippines: Can Autonomy Work Better in the New Relationship than in Previous Attempts?**

**Joseph Geni**

Mark Twain said, “Quitting smoking is easy: I’ve done it dozens of times.” Similarly, the parties in the Mindanao conflict have proven able to sign peace agreements, but implementing them has been another story. The current Framework Agreement on the Bangsamoro (FAB) and its four Annexes is not the first deal; whether it is the last will depend how it is implemented.

This paper considers the roadblocks that undermined the previous peace deals, lessons learned, and future challenges. Past problems centered on implementation, constitutionality, governance capacity, and spoilers. The legacy of these failures has added additional temporal problems relating to the speed of the political transition and disarmament. The government, rebels, civil society and international actors have all learned many lessons from these failures and have taken some precautions to prevent their re-occurrence. Perhaps the most promising aspect of this agreement, however, is that its predecessors exist: both sides have learned that total victory is unlikely, and both sides want a peace deal to work.

## **Implementation**

The biggest reason previous peace deals in Mindanao have failed is because they were not implemented, in part because neither side trusted the other to live up to its commitments. As the MILF Chairman Al Haj Murad Ibrahim (SAIS group meeting, January 2014) says, “once an agreement is not implemented properly or effectively, then it is a mere piece of paper, it is nothing.”

The 1976 agreement was undermined almost immediately by the high-handed policies of then-dictator Ferdinand Marcos. The Mindanao independence movement had the support of many local politicians, so Marcos removed these in favor of his own

appointees, who did not have local support. Marcos added insult to injury by dividing the region into two separate administrative units, which was correctly perceived as a divide-and-rule tactic. Hostilities resumed within five years of the accord.

In 1996, the parties signed what was supposed to be a “final” implementation of the 1976 agreement. It too failed. The MNLF claimed it was not properly implemented on the government side. Meanwhile in Cotabato City, Misuari’s decades of guerrilla warfare and his status as the symbolic head of the Moro resistance did not adequately prepare him or the MNLF for leadership. Misuari simply did not know how to be a governor. He did not know how to play the political game to secure resources, nor how to run an administration or deliver the goods to his citizens. His own central committee, in fact, tried to ease him into an “emeritus” role, but he resisted, leading to squabbling, then violence and Misuari’s arrest. Meanwhile, the changing of the Presidential guard in Manila spelled doom for the agreement. New President Joseph Estrada declared “all out war” on the rebels, leading to several years of pitched fighting, a new wave of casualties, and widespread displacement.

Another problem with implementing the 1996 agreement was funding. The agreement called for wealth-sharing and international donors contributed at a donors’ conference. However, most of that money was routed through Manila and never reached its destination, leading to donor fatigue or to direct investments that bypassed both Manila and the MNLF. This time, the parties hope the World Bank-managed Mindanao Trust Fund will distribute funds more effectively and with less corruption.

### **Constitutionality**

The most direct way the agreement could be scuttled is another intervention by the Supreme Court. The Court threw out the 2008 Memorandum of Agreement on Ancestral Domains (MOA-AD) as unconstitutional, leading to open warfare. Much has been learned from that fiasco. Unlike with the MOA-AD negotiations, which were largely a closed affair, the government has engaged judges, legal experts, and key Manila players in active, sometimes daily consultations on the course of the deal to make it less likely they will rule against it. They have also consulted the assorted local actors in Mindanao who brought suit against the ancestral domains agreement in the first place. And unlike

before, both chambers of Congress are firmly behind the President. The parties are much more optimistic the Court will not intervene, while still acknowledging that it could.

But this is only part of the issue. Even if the agreement is not declared unconstitutional, the MILF may find that it cannot get everything it wants from the agreement as it is, and the question of whether a constitutional amendment will be necessary looms large over the future. President Benigno Aquino III is loath to reopen the constitution, even though he is one of the few Filipino leaders who could do so without being accused of having ulterior motives, such as guaranteeing himself another term. Not everyone in the government is so closed to the issue, though, and the MILF leadership seems to have a “constitutions can be changed” outlook.

The Bangsamoro Basic Law (BBL) still remains to be drafted and is supposed to be submitted to Congress by May 2014, raising a host of questions. Can this tight window be hit? How much will Congress alter the law? And if the window is missed, will a future Congress leave the BBL “mutilated beyond recognition?” (Rasul, SAIS group meeting, January 2014)

For now, the parties have done the most important thing: keep the consultation process sufficiently inclusive that the law will be upheld. While the peace agreement has been finalized, most people recognize that it will likely not be the final word. The implementation will likely be a step-by-step affair, just as the negotiation of the agreement was. Whether or not one of those steps includes a constitutional amendment may depend on events. That is to say, a successful political transition and early wins in Bangsamoro governance may render an amendment unnecessary, but failures at implementation or a tortuous path for the Basic Law may result in changes to the agreement that require constitutional alteration.

### **Governance Capacity**

There are complex identity-based reasons behind the Moro drive for independence, but the main driver of the conflict has been failed governance. The MNLF’s rebellion heated up during the early 1970s during the autocratic and capricious rule of the Marcos presidency (and the 1976 Tripoli accords failed largely because of Marcos’s heavy-handed top-down implementation thereof). Amina Rasul calls Marcos “the greatest

recruiting tool” for the MNLF (SAIS group meeting, January 2014). Edward Azar proposed that protracted social conflict is the result of communal groups seeking basic needs, particularly security and fair access to economic and political opportunity (Fisher 1997). And Paul Collier (2007) posits that rebellion breaks out when it is physically and economically possible to do so. The Mindanao region has been systematically underdeveloped by governments based in the Christian north for decades, if not centuries, and it has also been devastated by 40 years of war. The new Bangsamoro entity will have to do what nearly all of its predecessors have not: provide effective, responsive, legitimate governance.

Much is still up in the air. The security architecture remains unclear. Will the Bangsamoro have its own police force? How many former MILF fighters will be integrated into the army or the police? These and other issues must still be resolved. Moreover, much of the violence involves other groups. Can the Bangsamoro entity control the problem of *rido*, the clan-based communal conflicts that can often involved hundreds of armed fighters and begin with something as innocuous as a property dispute? As Canuday (2007) argues, *rido* is a product of an unstable environment, not any inherent culturally violent traits of the Moros, Filipinos, or southeast Asians in general. Continued instability and access to paramilitary resources has inflamed *rido* conflicts, making them larger and more violent than they would have been. The problem can also be part of the solution. Canuday maintains that joint government-MILF mechanisms such as the Coordinating Committee on the Cessation of Hostilities (CCCH, designed to prevent unintended confrontations between the parties) and the Ad Hoc Joint Action Group (AHJAG, formed in 2002 to allow for AFP-MILF cooperation in fighting crime and terrorism) have helped prevent *rido* conflicts “from escalating into full-blown wars.”

Even if *rido* can be contained, the scattered communist insurgencies – many of which are decades old and some 50% of which are in Mindanao – will likely continue, as the communists have not been included in the Bangsamoro peace process. NGOs and outside monitors, largely absent from previous agreements, can help improve trust by providing impartial monitoring and heading off security crises. Then there are splinter groups and spoilers, which shall be discussed below.

The new Bangsamoro entity will be judged not just on providing security, but also on whether it can deliver the goods of governance. The MILF faces the age-old challenge of transitioning from rebelling to governing. Here, it can learn from its predecessor. The Autonomous Region of Muslim Mindanao (ARMM), created in the 1996 agreement, has been considered by many a “failed experiment;” has overseen the country’s poorest, most neglected and conflict-ridden region; and was deprived of much of the autonomy it was supposed to obtain. But it has also had nearly two decades to learn about administration, and is today attempting to reform itself and integrate this institutional knowledge – and perhaps some of its own staff – on to the forthcoming Bangsamoro entity even as it oversees its own termination. The FAB replaces the ARMM administration with a defined territory, a ministerial form of government, power and wealth sharing. But in order for this to work, Bangsamoro officials must make sure wealth is actually shared, unlike in the 1996 agreement. Some ARMM staff believe that 2016 is not enough time for a transition, and that the ARMM should have been allowed to continue administration for several more years. However, time is a luxury they do not have: this institutional knowledge must be transferred to the MILF, and quickly. Whether or not this can happen in time is an open question, but both the MILF and ARMM, at least, appear to recognize its importance.

### **Spoilers**

Chairman Al Haj Murad Ibrahim highlighted “the challenge posed by people and groups who maybe are not satisfied or who may be inclined to sabotage the implementation of the agreement” (SAIS group meeting, January 2014). This is a problem the MILF should know well: it was once a spoiler itself, splitting with the MNLF in 1981 and taking up arms. Now, the situation is reversed, with long-time MNLF leader Nur Misuari having declared unilateral independence from his home base in Sulu and refusing to take part in the peace process. This would be enough trouble if Misuari were the only spoiler. He is not. The MNLF itself is fractured into multiple groups, making engagement difficult. Furthermore, at least 200 members of the MILF have broken off to form the Bangsamoro Islamic Freedom Fighters (BIFF) and are operating in the south. Other groups, such as the al-Qaeda aligned Abu Sayyaf group that specializes in kidnapping, are even more

unsavory and create fears of internationalization of the conflict. And some, like the various communist fronts scattered through the country, have been excluded from the peace process entirely (see Chapter 12 on spoilers by Panagiotis Olympiou).

Stephen Stedman (1997) identifies the key ways to deal with spoilers. Some can be induced, some can be persuaded to join through norm-creation, some can be coerced, and some can be left behind through what is known as the “departing train” process. Which of these should be employed depends greatly on the motivation of the spoiler, and whether the spoiler is playing the game for a better outcome or is a “total spoiler” bent on wrecking the whole process.

How to deal with the MNLF is a major challenge. The crisis in the fall of 2013 in Zamboanga City, which displaced 180,000 and saw five villages burned to the ground, showed the risks of leaving the MNLF’s status unresolved. Quietly, the MILF has begun the essential step of reaching out to open-minded MNLF factions. The MNLF’s factionalization, and Misuari’s insistence on independence, suggest this will be a long process, but a greater degree of Moro unity will be needed going forward, and many factions of the MNLF have shown flexibility and openness to inducements. Misuari himself, however, may be more difficult, and it is not clear if other MNLF factions can move decisively without him.

By contrast, total spoilers like Abu Sayyaf and the BIFF must be isolated. This is what is known as the “departing train” strategy: make it clear to the spoilers that the peace process is going on without them, and they would best be served by getting on board. One promising step is recent united efforts by the government and the MILF to fight intransigent BIFF units, which could help build trust between the major parties while improving security. The MILF’s armed forces general staff claim they have taken a “diplomatic approach,” first sending emissaries to breakaway groups entreating them to return, and then, “if we have exhausted all diplomatic means, then is the time we employ our muscle” (SAIS group meeting, January 2014).

Meanwhile, many Christian minorities in Bangsamoro regions fear losing land under the new agreement, and the concerns of minorities must be better placated than in the past. According to recently anointed Cardinal Orlando Quevedo, the “10 consensus points” agreed in Kuala Lumpur addressed many of these worries, but suspicions remain,



as does misinformation about what has actually been agreed (SAIS group meeting, January 2014).

How the peace process handles its spoilers and how effectively the Bangsamoro entity governs converge at the all-important issue of security. Many outstanding security issues remain: kidnapping is a serious problem, *rido* conflicts are the bulk of the violence today, and communist insurgencies persist.

Fortunately, the current peace agreement has mechanisms previous agreements did not. The CCCH meets regularly to help prevent minor incidents from becoming major ones, and grassroots monitors from affected communities sound the alarm when communal tensions threaten to escalate. NGOs like MinHRAC, part of the Civilian Protection Component of the IMT, also have a network of contacts who alert them to brewing conflicts, allowing them quickly to notify different officials to defuse tensions. The International Monitoring Team (IMT) provides impartial international oversight, building trust. And NGOs like the Centre for Humanitarian Dialogue have gained credibility in the process through their impartiality, and are able to engage quietly in discrete but useful “track two” diplomacy and managing political, technical, and even personal issues between and within the parties. These groups are able to implement confidence-building measures and strengthen the ceasefire mechanisms, to the point that other countries in the region have expressed interest in copying the Mindanao model. Previous peace agreements lacked these stabilizing elements and suffered for it. Outside, independent monitoring, impartial NGOs, and better communication among the parties can hopefully head off future events like the one in Zamboanga City.

### **Timing is Everything: Political Transition and Disarmament**

The parties’ efforts to learn from and avoid previous mistakes have led to two more outstanding temporal issues. One, the political transition, has been accelerated to meet the self-imposed 2016 deadline that coincides with the end of President Aquino’s term. The other, disarmament, will likely have to be decelerated given continued insecurity in Mindanao. (Further discussion of political transition and disarmament can be found, respectively, in the essays by Benjamin Merrill and Ayeda Wondimu.)

Can the MILF form a political party and learn to play the system by 2016, or will the “traditional politicians” (known as “trapos”) win again? This issue, a product of the speed at which this agreement is being implemented, is in part a legacy of the Estrada years. Nobody is sure who the next Filipino president will be, or whether this individual will be as supportive of the peace process as Aquino has been. In the words of Cardinal Quevedo, “[i]f Aquino is out of office and it is not completed, then the whole thing might be sabotaged” (SAIS group meeting, January 2014). Hence the timeline has been accelerated to get elections completed by 2016, before the alignment of Congress changes or a new President reneges on the peace deal. But two years is scarcely time for a rebel group to organize as a political party. Recent transitions, such as that in Egypt, show the perils of proceeding too quickly. The oligarchic nature of Filipino politics, both in Mindanao and Manila, is ominous. The “trapos” are veterans at the political game and are tightly intertwined with private armed groups (PAGs). The MILF is a relative newcomer to this arena, and must mobilize mass support quickly.

The possible negative outcomes from this political transition are among the most serious threats to the peace process. In the words of a general staff member of the Bangsamoro Islamic Armed Forces, “We’re aiming to have a government. Therefore we need a political party” (SAIS group meeting, January 2014). The MILF must successfully enter the political realm within the next two years, but it is unclear at this time if it will be able to do so.

Related to the issues both of spoilers and insecurity is that of disarmament and demobilization. Here, despite the most recent annex, the sides have, understandably, somewhat incompatible visions of what will happen to the MILF’s fighting capacity. Government officials argue that a peace deal that doesn’t involve disarmament is not a real peace deal, as it leaves the MILF the capacity to take up arms again at any time for any reason. They highlight the problems stemming from the lack of disarmament in the 1996 agreement. The government also fears that its withdrawal will be followed by slaughter in Mindanao along ethnic or personal lines, and that there will be no “peace dividend” if other groups, from the BIFF to the communists, merely recruit the MILF’s former soldiers into their ranks.

By contrast, the MILF argues that, given its security environment, disarmament at this time is impossible: the BIFF, the Abu Sayyaf group, and the communists in the New Peoples' Army (NPA) retain their guns, while the region's "trapos" can use their PAGs to bully their way to victory in the 2016 elections. CAFUs (Civilian Armed Forces Units), government-sanctioned but often independent militias, remain armed as well. Even if the MILF successfully enters politics and forms a party, it argues, it cannot impose security and governance if it disarms now. And given the failure of previous deals, the rebels also remain understandably hesitant to give up arms.

In general, disarmament efforts have been a long-term affair and are fraught with peril. The case of Northern Ireland suggests that a slow, step-by-step approach is more viable and can build trust. Conversely, Rory Stewart (2011) highlights NATO's struggles in Afghanistan, where efforts to disarm one local group often leave it at the mercy of the others around it, increasing instability. While the MILF will ultimately need to disarm, it is probably unfeasible and inadvisable in the short term. This raises concerns, however: while some of its forces will be integrated into local security forces and the police, the numbers might well be much smaller than the MILF is hoping for or anticipating. Nor is integration a cure-all: some 5,000 MNLF fighters were integrated into the army from 1997-2001, but these soldiers still distrusted the government and often didn't get along with other members of their unit. Meanwhile, Moro civilians often don't trust Christian soldiers, a legacy of the martial law of the 1970s.

Delayed disarmament, however, does not spell doom for the peace process. The AFP and the MILF have worked together on security and prevented any major incidents in Cotabato City for over two years. Such coordination should continue.

### **A Desire for Peace**

Identity-based separatist conflicts usually end in one of two ways: one side wins decisively (and often bloodily), or both sides realize they can't win and seek a settlement. The Mindanao conflict seems to have reached the second point, and it seems clear that, spoilers notwithstanding, both sides *want* a settlement. It is also clear that both sides have learned from the failures of previous agreements, and are prepared to legitimately engage in good faith towards achieving an acceptable outcome. Both sides recognize a military

stalemate, had valid representation in the negotiations, and recognize what Zartman refers to as a “mutually enticing opportunity.” And neither perceives a likely benefit from a return to active hostilities.

This “ripeness for negotiation” will be key; negotiated settlements seldom work unless both sides are committed to them, and each of the above-mentioned obstacles could prove fatal to the accord. But both sides have good reason to persevere in making the peace deal work. The Moros have been largely self-financed, without any regional backers, and their lands have been beset by war, insecurity, destruction of infrastructure, and impoverishment for generations. They witnessed the displacement of hundreds of thousands, many of whom migrated to other regions and never returned, and a fall in real living standards across much of Mindanao from the 1970s through the 1990s. The five Muslim-majority provinces have remained near the bottom of the country’s Human Development Index rankings, as evidenced in the chapter by Cormac Sullivan. They know full victory and independence is unlikely and crave peace and development. The Aquino government, meanwhile, recognizes that a “Sri Lanka outcome” is extremely unlikely. Bugged down by the cost of counter-insurgency, the military wants the Moro issue settled so it can shift its attention outward to face what it considers its primary geopolitical challenge of the 21st century – China’s expansion in the South China Sea.

In short, while many stumbling blocks and challenges remain, both sides have learned much from previous failures, and the major actors earnestly want this agreement to work. This by no means guarantees success, but it does make success possible.

## **Recommendations**

### **To the MILF**

- **Develop political and administrative capacity as quickly as possible.** A political party must be formed. The ARMM’s institutional knowledge must be utilized to prevent the missteps of the 1996 agreement from repeating themselves.
- **Continue to coordinate militarily with the AFP to prevent unintended accidents and to isolate total spoilers like Abu Sayyaf and the BIFF.**
- **Continue outreach to the MNLF to achieve greater Moro unity.**
- **Assuage the fears of minority groups in the future Bangsamoro.**

- **Proceed as if there will be no constitutional amendment**, as reopening the constitution could prove a fraught process.

To the International Community

- **Continue support to the IMT.** International, unbiased monitoring is a key element to keeping a peace that both sides want to keep.
- **Utilize the Mindanao Trust Fund to invest in development in the Bangsamoro** more effectively than in the past

To the Government of the Philippines

- **Continue security cooperation with the MILF** to prevent unintended or unwanted incidents.
- **Don't let spoilers undermine the proceedings.** The determination to continue shown by all sides in the aftermath of Zamboanga City is promising.
- **Undertake disarmament efforts with great sensitivity and without undue haste.**



# **The Challenges of Transforming the MILF into a Political Entity**

**Benjamin T. Merrill**

The signing of the Annex on Normalization in Kuala Lumpur, Malaysia, on 25 January, 2014, signaled the beginning of a transition period in the Bangsamoro. The hope of both the Moro Islamic Liberation Front (MILF) and the Government of the Philippines (GPH) is that the finalization of the Annex will bring an end to decades of violent conflict. The cornerstone of this transition is the creation of the Bangsamoro, an autonomous region that will replace the Autonomous Region in Muslim Mindanao (ARMM), a region created in 1989 as a result of negotiations between the Moro National Liberation Front (MNLF) and the GPH. This new region will be governed by the Bangsamoro Transition Authority (BTA), led by the MILF, until national and regional elections in 2016, at which point it will adopt a ministerial form of government.

During this two-year transition period the MILF will have to complete three tasks. First, the Bangsamoro Transition Commission (BTC) must draft, by 2015, the Bangsamoro Basic Law (BBL), a document that will define the basic elements of the new Bangsamoro political entity, including the composition of the new ministerial government and the electoral procedures through which its members will be elected. Once the document is finalized, it will have to be approved by the Philippine Congress and signed into law by President Benigno Aquino III. Upon ratification, a referendum will be held in the Bangsamoro territory that will help determine what cities and municipalities are included in the new autonomous region. Second, between 2015 and 2016 the BTA must successfully administer the Bangsamoro, the most underdeveloped and impoverished region in the Philippines. Finally, the MILF must focus on evolving into a political entity that is capable of fielding capable and appealing candidates for the 2016 elections, which will determine the composition of the first elected Bangsamoro government. There are promising signs that the MILF will be able to transition from a rebel group to a political entity. This success, however, will depend on the MILF's ability to transcend several internal and external challenges.

This chapter will analyze the theories that underpin rebel groups' transitions to political parties, how these theories can explain the failures of the MNLF-led ARMM, what the MILF is doing to avoid the mistakes of the MNLF, and the challenges the MILF has yet to address. The paper will conclude with a series of recommendations for the different stakeholders involved in the conflict.

### **Theoretical Approaches to the Transition of Rebel Groups to Political Entities**

Until recently, academics and international organizations judged the success of rebel groups' political transformation on the basis of their participation in democratic elections (Penetrante 2012, 6). As a result, donor agencies and academics often advocated for the electoral processes as mechanisms for cementing peace agreements and ceasefires. Furthermore, as Benjamin Reilly (2008, 7) points out: "Policy makers, democracy promotion organizations, and scholars often display a strong normative bias in favor of cohesive, or organizationally developed political parties." Over time, however, the universality of this approach has been challenged by the reemergence of violence in several countries where elections took place immediately following agreements (e.g., National Union for the Total Independence of Angola [UNITA] in Angola). Today, an emerging consensus between academics and policy makers is that the transformation of rebel groups into political entities is "neither linear nor one-dimensional" (de Zeeuw 2008, 3).

To one degree or another, all rebel groups face several challenges (Manning 2004, 59). On the one hand, there are challenges that affect the organizations' leadership. These include financial pressures, outside support for leadership reform, the development of political skills, and the recruitment of new cadres that are competent and loyal (Manning 2004, 59). On the other hand, there are challenges "which require adjustments to the organization's strategies for attracting a mass following, or their collective incentive strategies" (Manning 2004, 59). Success in surmounting these challenges is primarily dependent on the attractiveness and relevance of the group's original message or the persistence of original grievances.

Jeroen de Zeeuw (2008, 12) proposes that rebel groups must go through two structural and two attitudinal changes before they can become political parties. The first



structural change involves the demilitarization of the organization. Demilitarization is typically accomplished through a process of disarmament, demobilization, and reintegration (DDR). While disarmament and demobilization present logistical and security challenges, undoubtedly the most difficult task is that of reintegrating former combatants into society. Reintegration usually revolves around programs focused on the development of skills that provide rebel soldiers with viable livelihood alternatives. The success of these programs is typically limited as a result of underfunding and limits in scope. As an alternative, rebel soldiers are sometimes absorbed into a country's existing military. The challenge with this type of reintegration is that the rebels must typically undergo lengthy retraining and resocialization in order to meet the standards of professional soldiers. If DDR fails, there is a high risk that former combatants will join new armed groups or turn to illegal activities such as drug smuggling or kidnapping.

A secondary issue with DDR is that rebels often retain their weapons as insurance in case the process devolves. This type of scenario played-out in both Angola and Ireland. In Angola, the United Nations (UN) was unable to effectively monitor the disarmament of UNITA and as a result they retained the capacity to return to arms, which they did upon losing elections in 1992. In Ireland, the Irish Republican Army (IRA) turned over old and ineffective weapons while hiding their more modern arsenals.

The second structural change involves the “development of a party organization that is capable of representing popular interests, fielding electoral candidates, organizing election campaigns, and ultimately, taking on governance responsibilities” (de Zeeuw 2008, 13-14). This step is relatively straightforward if the rebel group originated from a social or political organization, or if they maintained a clear division between military and political activities during their struggle (Nissen and Schlichte 2006, 45). If the rebel group lacks political experience, then it must start from scratch and focus its efforts on obtaining political recognition, developing a political program, creating party bylaws, and recruiting a cadre of capable and committed individuals.

The first attitudinal change is the democratization of decision making. This change is particularly difficult for rebel groups that are solely organized along militaristic lines because these groups are typically organized around strict hierarchical command models. Furthermore, decision-making power in these kinds of organizations normally

rests in the hands of a single leader (e.g., Jonas Savimbi [UNITA] and Medardo González [Farabundo Martí National Liberation Front]). The early adoption of democratic decision-making allows rebel groups to adjust to the processes of democratic political systems while at the same time creating a sense of ownership among new cadres.

The second attitudinal change, and the final step in the process, involves the readjustment of strategies and goals. It is assumed that a rebel group that is willing to transform itself into a political entity has achieved some, if not all, its goals or at the very least realized that it can accomplish these goals through political means. As a result, it must adjust its rhetoric and agenda to reflect the new political reality. To accomplish this, rebels must develop a political ideology that can attract voters, engage with civil society, and participate non-violently in the democratic process. This step can be particularly difficult to achieve when rebels lack the technical training and knowhow to develop effective campaigns that address the needs and wants of the population they are targeting.

But it is important not to put the bar too high, too soon. The transformation of a rebel group into a political party is a lengthy process that requires changes both in the internal make-up of the organization and in the society and political system to which they aspire to belong. When rebel groups are given unrealistic timelines to carry out these changes there is a risk that they will not develop the political maturity necessary to effectively respond to the demands of their constituents. Additionally, if rebel groups feel these imposed timelines are unfair or unworkable, there is a very real possibility that they will resume their struggle in hopes of forcing the government or their enemies to renegotiate the terms of the agreement.

### **The MNLF Experience with Political Transformation**

The MNLF's political transformation, best embodied in the ARMM, was a complete failure due to corruption, inefficiency, and nepotism (Rasul, 2007). However, a careful analysis of their experience can be helpful in evaluating the success of the MILF's own transition and the possible challenges they might face.

The MNLF's transformation from a rebel group to a political entity began with the signing of the MNLF-GRP 1996 Final Peace Agreement. That same year, Nurallaj Misuari, the leader of the MNLF, became Governor of the ARMM. In this endeavor he

was supported by President Fidel Ramos, who ensured that Misuari ran virtually unopposed (Penetrante, 10). Misuari lacked the technical training or experience to run government institutions and as a result the ARMM's ability to address the concerns of the Bangsamoro people declined significantly during his government. Sensing a shift in MNLF support among the population, MNLF generals staged a coup to overthrow Misuari. This divided the MNLF into several different factions (Col. Dickson Hermoso, SAIS group meeting, 17 January 2014). His leadership challenged, Misuari tried to regain control of the MNLF by re-launching the rebellion against the GPH.

Using our analytical framework we can quickly identify the reasons for the MNLF's failed transformation. First, the MNLF never fully demilitarized following the 1996 agreement. The MNLF rebels refused to lay down their weapons out of fear that the GPH would fail to implement the agreement, as it had with the 1976 Tripoli Agreement (McKenna 1998, 168). The MNLF demilitarization was further undermined by the ARMM's dependency on the GPH which left the ARMM budget "vulnerable to manipulation and abuse for political considerations" (La Viña 2011, 6). Furthermore, the funds the GPH provided the ARMM were often sufficient only to cover salaries and utilities (ARMM Representatives, SAIS group meeting, 18 January 2014). As a result, the ARMM under Misuari lacked the financial resources to make good on MNLF campaign promises, as well as to develop training programs and other support structures to help former combatants reintegrate into society.

The MNLF also failed to transition because they were guaranteed seats in both the regional and national governments. The GPH's guarantee of MNLF leadership of the ARMM meant that the rebel group never had to develop a party ideology, recruit and train political candidates, or carry out political campaigns. Additionally, the MNLF never democratized decision making, which, despite the splintering of the movement, continues to rest in the hands of Misuari. During his tenure as governor of the ARMM, Misuari consolidated his power by hiring friends and family to important positions within the regional government, reneging on the campaign promise to institute merit-based hiring policies. As a result, the ARMM's bureaucracy was riddled with incompetence and cronyism that ultimately forced Misuari to abandon his position as governor (ARMM Representatives, SAIS group meeting, 18 January 2014).

In an effort to reverse the reputational and organizational damage that Misuari's governorship did to the ARMM, the regional government has begun to take important steps in preparation for the windup of the entity in 2015. In 2012, the ARMM began working on a Human Resources Information System, a database that maps the different capacities of ARMM employees. The ARMM believes this system will help the Bangsamoro government identify qualified ARMM employees to rehire. The ARMM has also established a stringent hiring process in an effort to eliminate the patronage politics so pervasive in the Philippines. The process consists of a number of selection mechanisms, including a civil service eligibility test, a psychometric evaluation, a series of interviews, and a final determination by a regional board comprised of carefully selected leaders. The ARMM's hope is that these measures will help the BTA recruit a bureaucracy that is capable of undertaking the challenging reforms and development programs necessary for the reintegration of MILF combatants and the improvement of the livelihoods of the inhabitants of the Bangsamoro (ARMM Representatives, SAIS group meeting, 18 January 2014).

### **Current MILF Situation**

The MILF's current situation is different from that which the MNLF faced in 1996. For one, the MILF has been able to negotiate several beneficial arrangements that will allow them to rebuild the Bangsamoro and provide for their constituents. Additionally, the MILF has several internal characteristics that should, theoretically, facilitate its journey to becoming an effective political actor.

In helping the MILF-led BTA provide for the people of the Bangsamoro, two annexes are particularly relevant. The first is the Annex on Revenue Generation and Wealth Sharing. Through this Annex, the MILF was able to secure fiscal independence, something the MNLF was never able to do. It allows the Bangsamoro to keep a significant portion of the taxes levied in the region, including 75% of national taxes. This Annex also provides for a block grant from the GPH.<sup>14</sup> These provisions should provide the resources that the BTA needs to support the economic and social development of the

---

<sup>14</sup> The final amount will be determined in the Bangsamoro Basic Law but it will remain independent of government budget and appropriations by the Congress of the Philippines.

Bangsamoro people. Of particular relevance in these efforts will be the work of the Bangsamoro Development Agency (BDA). While the BDA has some experience in implementing programs in partnership with international donor agencies, the leadership of this agency will need to develop the skills and expertise to manage and implement similar projects on their own.

The second Annex focuses on Normalization, specifically the MILF's DDR, a significant portion of which will be funded by the GPH. This Annex also includes provisions for the creation of temporary Joint Peace and Security Teams and the eventual establishment of a Bangsamoro police force. These security teams will include members of the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP), and the Bangsamoro Islamic Armed Forces (BIAF), the armed wing of the MILF. The creation of the Bangsamoro police force will provide employment for hundreds, if not thousands, of former Bangsamoro Islamic Armed Forces combatants, particularly those who chose not to join the Armed Forces of the Philippines. The creation of this alternative avenue for employment should prevent former combatants from joining other armed groups in the region while also providing a sense of ownership in the security of their homeland.

The MILF's decision-making procedures should facilitate the group's transition to a political entity. While the organization is certainly hierarchical in nature,<sup>15</sup> decisions are made by consensus in the Central Committee. These include decisions such as naming the leader of the BTA (MILF Chairman Al Haj Murad Ibrahim, SAIS group meeting, 18 January 2014). It is also important to note that local experts believe that unlike Misuari, Chairman Al Haj Murad Ibrahim will not attempt to become the head of the BTA or of the new Bangsamoro government. This is significant because it signals that the MILF has already completed de Zeeuw's first attitudinal change, namely the democratization of decision-making.

---

<sup>15</sup> The MILF is led by Al Haj Murad Ibrahim, who became the leader after the death of MILF founder Salamat Hashim.

### **The Road Ahead: Challenges for the MILF**

There are five salient challenges that the MILF must address in its transition to a political party ahead of the 2016 elections. Two of these challenges are related to de Zeeuw's analytical framework. The other three challenges are related to the context of the conflict and the MILF-GPH agreement.

Although the MILF has already taken steps to address the issues of demilitarization and the democratization of decision making, it has yet to develop a political party or adjust its strategies and goals to the scenario of a post-conflict Bangsamoro. The challenge of creating a political party can be broken down into two steps. The first is the development of a party ideology and organizational structure. The second is recruiting and training party members. Government officials and local public intellectuals agree that the MILF is not working fast enough to develop a political party and that this could harm their chances of assuming the leadership of the Bangsamoro after the 2016 elections (OPAPP Representatives, SAIS group meeting, 21 January 2014). Until the signing of the Annex on Normalization, all of the MILF's efforts were concentrated on the successful negotiation of an agreement and the creation of an effective BTA. Moving forward, the challenge for the MILF will be the creation of a political party while drafting a comprehensive BBL and administering the Bangsamoro during the transition period. A secondary, but important, challenge in this arena is the political competition that the MILF will have to face during the 2016 election. The MILF is likely to be at a huge disadvantage during the elections because its newly formed party will have to compete against seasoned politicians (such as the traditional *datus*) who in many instances have been accumulating resources or investing in visible projects in an effort to shore up support ahead of elections.

Some members of the MILF have had some exposure to Filipino politics and the inner workings of bureaucracies as a result of their lengthy negotiations with the GPH, although their numbers are very limited. One such member is Michael Mastura, who served as Congressman representing the districts of Maguindanao and Cotabato City. As a result, he has an in-depth understanding of Filipino politics and constitutional procedures.

The military part of the MILF is the BIAF, which has had a different experience than its political unit. As a result, the MILF needs to recruit new members and train them both ideologically and technically in order for them to be able to assume leadership roles within the BTA and the Bangsamoro government. Current initiatives in this area include capacity building efforts by the Bangsamoro Leadership and Management Institute (BLMI), a course on participation in ministerial governments by the Asia Foundation, and consultations with experts on political development and Filipino politics (BDA and BLMI Representatives, SAIS group meeting, 17 January 2014). The consensus among experts, however, is that they are not focusing enough attention on these endeavors and that capacity building exercises are limited to a group of select individuals.

In the process of creating a new party, the MILF will also have to adapt its message to the new reality on the ground. Having achieved autonomy and the prospect of self-governance, the challenge for the MILF will be to develop an ideology that resonates with voters in the Bangsamoro. In crafting this new message it will have to consider the demographic, cultural, ethnic, and religious composition of the region it hopes to administer. Their main challenge will be convincing Muslims that autonomy is as good an arrangement as they could hope for, and convincing Christians and indigenous people that their party will rule for all residents of the Bangsamoro and not only for Muslims.

The context of the conflict presents two additional challenges for the MILF. The first is the electoral system. The MILF will not only be contending in its first elections, it will also be participating in an electoral process that is widely acknowledged as corrupt, inefficient, and characterized by what Vicky Randall (2008, 245) calls “turncoatism.” The MILF will have to expertly navigate this process full of fluid alliances, backstabbing, and graft if it hopes to emerge victorious. The second contextual challenge is the proliferation of violence and weapons in the area. The MILF does not have a monopoly of violence in the Bangsamoro and as such will have to deal with the issue of private armies and other splinter rebel groups. This is a significant concern as these groups could “spoil” not only the success of the BTA but also the results of the elections. Of particular concern for the MILF should be the private armies that are under the control of local politicians such as the Ampatuan clan (Penetrante 2012, 7).

The final, and perhaps more important, challenge will be accomplishing the transition from rebel group to political party before 2016. In the original negotiations, the MILF requested a six-year transition period during which they would administer the Bangsamoro and prepare for elections (MILF Chairman Al Haj Murad Ibrahim, SAIS group meeting, 18 January 2014). The final agreement, however, granted them only two years. This reduction in the timetable was imposed by the Filipino political system where the president is elected for a single, six-year term. While presidents enjoy high approval ratings early in their terms, they become “lame-ducks” toward the end and lack the political power to influence congressional decisions. As a result, President Benigno Aquino III and his representatives insisted on completing the agreement and the transition ahead of the 2016 elections out of fear that delays in implementation could result in the next president’s reversing or abrogating the agreements. This reduction in time translates into an inflexible timeline that most experts agree is unrealistic; many believe a minimum period of five to seven years would be necessary to carry out a transition of this magnitude (BDA and BLMI Representatives, 17 January 2014; ARMM Representatives, 18 January 2014; Public Intellectuals, 18 January 2014; SAIS group meetings).

## **Recommendations**

In light of the above noted challenges for the MILF, the following recommendations are put forward:

### Moro Islamic Liberation Front

- **Establish a political party as soon as possible.** It takes time to develop a party ideology and identity, and the MILF must have both if it hopes to emerge victorious from the 2016 elections. To this end, the MILF Central Committee must **create a party committee** within the political branch of the movement. This committee should be tasked with creating party by-laws, designing the party’s organization chart, identifying capable candidates from within the MILF, and recruiting new members. In recruiting and designing the structure of the party, the committee must pay special attention to accommodating both old and new members. To this extent, the new party must distinguish between ideologues and technocrats. Ideologues should be tasked with developing the party’s political



message and creating a party identity. The administration of the Bangsamoro, however, must be left in the hands of those party members who are academically and professionally qualified to run a government. The committee must also work to **ensure party unity** at least until after the 2016 elections. This will prevent the MILF from devolving into a number of different parties vying for the same political offices.

- **Develop a political message that appeals to all sectors of the Bangsamoro.** Because of the diverse demographic composition of the region, the MILF party must have cross-cutting appeal. To this extent, the party's ideology should **focus on the social and economic development of the Bangsamoro people**. Furthermore, the party should **include Christians, Indigenous People, and Muslims of other ethnicities** among the members of this cadre. This ideology of inclusion will guarantee a broader appeal that will make them more competitive vis-à-vis traditional politicians and at the same time will reduce the emergence of spoilers among underrepresented populations.
- **Draft a BBL that guarantees inclusivity for all relevant groups as well as the MILF in the Bangsamoro.** The MILF has the unique opportunity of being able to draft the laws that will determine the political, social, and economic future of the region. One of the MILF's current proposals is **the creation of a 50-member Parliament**. Using the MILF's proposal as a starting point, I would suggest they require 50 percent of the seats be filled through popular election, 30 percent through proportional representation, with the remaining 20 percent divided among the different ethnic, religious, and cultural groups in the region. Furthermore, the **Chief Minister should be elected by no less than three-quarters of the Parliament**. This will guarantee that even if the MILF were to lose the elections in 2016, their approval would still be required to appoint the Chief Minister. In drafting the BBL, the MILF must also ensure that **only regional parties** are allowed to participate. This will help insulate local elections from the influence of national parties and interests (OPAPP Representatives, SAIS group meeting, 21 January 2014).

- **Manage expectations.** The MILF must ensure that the public has **realistic expectations** of what they will be able to accomplish during the one-year mandate of the BTA. If expectations are too high and they fail to deliver, the MILF could quickly find itself supplanted by other Moro organizations or local politicians.

#### Government of the Philippines

- **Ensure the BBL is passed without major amendments.** The President must use his popularity and political power **to push the proposed BBL through Congress**. If the document is watered-down or sent back for revisions there is a serious risk that the BTA will have too little time to prepare the region ahead of the 2016 elections. Furthermore, any significant changes to the document could encourage the emergence of spoilers who prefer full independence to autonomy.
- **Help establish an effective police force and disarm private armies.** The MILF wishes to establish an independent Bangsamoro Police Force that includes a significant number of former combatants. While the GPH should not insist on providing members for this new force, they should instead insist on **providing training and equipment**. There are very fundamental differences between the duties of a police officer and a soldier, and although the MILF has been effective in training soldiers, they have very limited experience in the development of a professional police force. The government should also **help the Bangsamoro deal with the issue of private armies in the region**. Even though the GPH will fund and partially staff the Joint Peace and Security Teams, the government must go one step further and attempt to address the root causes of this problem, namely funding from national parties and government officials and agencies. This can be done by **imposing fines or banning political parties that fund private armies** and removing government officials who use private armies as an extension of national power in the Bangsamoro.

#### International and Non-Governmental Organizations

- **Provide funding for political strengthening programs.** International organizations have a strong bias towards elections as a signal of political

transformation. However, they provide little advice on how to promote or create political parties (Reilly 2008, 7-8). To remedy this, IOGs and NGOs must provide **funding and technical support for political strengthening programs** to provide the MILF and other actors with the tools to develop and create political parties. This support could come, for example, from organizations such as the International Republican Institute, the National Democratic Institute, the National Endowment for Democracy, the Friedrich-Ebert-Stiftung, the Konrad-Adenauer-Stiftung, the Hanns-Seidel-Stiftung, or the Heinrich-Böll-Stiftung.

- **Establish training programs and academies for Mindanao bureaucrats.** The creation of the Bangsamoro will result in a significant need for qualified and experienced bureaucrats capable of running the new autonomous region. IOGs and NGOs could invest in these types of programs and attempt to run them alongside Bangsamoro agencies such as the BDA and BLMI. This would help transfer the program-development skills to locals while also producing a more capable bureaucracy. These training programs should **focus on areas such as public and project finance, budgeting, accounting, human resource management, and public administration in general.**



# **Potential Spoilers in Mindanao**

**Panagiotis Olympiou**

The multiplicity of actors in Mindanao creates an environment suitable for several spoilers to exist. Nonetheless, with a few exceptions and conversely to what were the dispositions a few years ago during the previous visit of SAIS in Mindanao (Hopmann and Zartman 2011, 249), the major actors with whom we had the chance to talk were reluctant to refer explicitly and outright to spoilers. This reflects the change in attitudes, and the commitment and expectations that the Framework Agreement has generated. It is within this context that we should examine the role of spoilers as well as the measures that different actors need to take in order to safeguard the implementation of the Comprehensive Peace Agreement.

To better analyze the impact of spoilers specifically in Mindanao I introduce a main two-dimensional division. Vertically, spoilers in Mindanao can be divided in three broad categories: the Islamic armed groups, the “politico-economic complex” and the minorities. Although these spoilers will most likely remain throughout the foreseeable future, their function in the conflict as well as their capabilities and impact change when examined within a different time frame. For that reason, I apply a further, horizontal division between the short-run and the long-run outlook of the spoilers. The benchmark date for this division is the year 2016, when the first elections of the Bangsamoro are planned to be held.

Conceptually, a simple typology of spoilers can help us analyze them: first of all, limited spoilers pose obstacles to peace processes in order to improve their position in the future peace; secondly, greedy spoilers aim at prolonging the conflict so that they can maintain an environment in which they enjoy – related or unrelated to the conflict – benefits; and, finally, total spoilers fundamentally oppose any settlement of the conflict and pursue absolute objectives (Stedman, 2000, 183).

This chapter will identify the potential spoilers of the Mindanao conflict, how and why they could undermine the implementation of the Comprehensive Agreement on the Bangsamoro (CAB), and provide recommendations on how to mitigate the threats they could pose to the peace process.

### **The Islamic Armed Groups: Total Spoilers?**

All parties and commentators, both in Manila and in Mindanao, acknowledged the possibility that Islamic armed groups in Mindanao could create obstacles to the implementation of peace. Although there is a general consensus that they are currently unable to undermine the peace process, their position is of great importance in the long run. In the words of the Head of the International Monitoring Team (SAIS group meeting, 19 January 2014) “they are not able to launch large assaults, but their activity would undermine the confidence of the people in the process and the government.”

Three elements set constraints for the Islamic armed groups in the short run: the momentum that characterizes the relationship between the Government of the Republic of Philippines (GPH) and the Moro Islamic Liberation Front (MILF), the successful record of the ceasefire mechanisms combined with the strong cooperation of the two parties’ armed forces, and the expectations of the Bangsamoro people.

With these elements in place, the Islamic armed groups lack both the material and the moral capacities necessary to damage the peace process. First of all, they are depleted of human capital and military equipment. Moreover, the close cooperation of the GPH with the MILF with regard to the monitoring of the ceasefire and the good relationship of the two do not allow isolated incidents of violence to affect the ongoing effort for peace. Last, the majority of the Bangsamoro people appear to be invested in the MILF and to have increased expectations for the success and the subsequent fruits of peace. This, in turn, diminishes the support the other groups enjoy as well as their pool for recruitment. The Zamboanga incident, in September 2013 is indicative. Although MNLF forces laid siege to the city for several days and the crisis resulted in more than a 100,000 displaced persons, the armed forces of the two sides managed it without any friction between them. Moreover, the MNLF forces did not enjoy the support by the Bangsamoro people in their acts.

However, the prospects of the Islamic armed groups are different when examined in a longer-term frame. As one key player in Mindanao said, “the aspiration of the Moro Nation is complete freedom, which is only achieved by independence; it cannot be deprived of this right. At this point, it is not practical to achieve independence. This [the CAB] is an alternative: if properly implemented, people will see there is no need for

independence” (SAIS group meeting, 18 January 2014). If the expectations of the Moro people are not met – either by the MILF (e.g., inability to hold elections, lack of governing capacities etc.) or by the GPH (i.e., failure to pass the Bangsamoro Basic Law in the Congress) – the popularity of the Islamic armed groups will likely skyrocket. The development of the armed groups themselves teaches us that, disappointments with regard to the cause of independence have led to the endorsement of more extreme positions.

Moreover, in the long run the Armed Forces of the Philippines (AFP) will yield their security duties to the Bangsamoro Police, many of whom may come from the ranks of the BIAF. Then, the Islamic armed groups will probably have to face less pressure. Also, we can expect that in reality autonomy will be less ideal than the expectations of the MILF and the Bangsamoro, and that failures or disappointments could offer to the armed groups opportunities for criticism and cracks for engaging with the population. Therefore, the armed groups are more likely to threaten the implementation of peace in the long run rather than in the short run.

The most important spoiler in this category is the Moro National Liberation Front (MNLF). The MNLF is currently split in 3 to 5 groups, all of which have limited military power. The faction of Nur Misuari, founder and leader of the MNLF, is consistently opposed to the CAB, as he considers the current peace process to be illegitimate and the 1996 agreement to remain binding. The MNLF has an observer status in the Organization of the Islamic Countries (OIC) and Misuari led the negotiation process that led to the 1996 Final Peace Agreement that established the Autonomous Region of Muslim Mindanao (ARMM), and is the Commander-in-Chief of the MNLF’s forces.

Nonetheless, the CAB undermines the peace agreement achieved by Misuari and the MNLF and it marginalizes both of them. An attempt to bring the MILF and the MNLF peace processes together was refused by Misuari. In short, Misuari wants to retain his primacy in the Mindanao independence cause and, therefore, wants the MILF peace process to fail, which makes him and his faction a total spoiler. Two of the other MNLF factions are alleged by some commentators to have committed to the FAB and to be in cooperation with the MILF, whereas other sources suggest they follow a “wait and see”

policy. Also, the OIC has established the Bangsamoro Solidarity Forum, where the MILF and the MNLF come together.

Misuari's MNLF has a big part, if not the majority, of its current fighters in jail after the Zamboanga incident. Its lack of forces and its factionalism renders it too weak to pose a threat to the CAB in the short turn. According to Bong Montesa, Misuari is a symbol of the Moro independence movement and his faction could become the recipient of greater support resulting from any future discontent and disappointment about the implementation of the ongoing peace process (SAIS group meeting, 22 January 2014).

The next important group that could potentially spoil the peace process is Abu Sayyaf. Even though it started as a hard-line spin-off of the MNLF, when the latter decided to start negotiations with Manila, Abu Sayyaf has now degenerated to an association of criminal gangs. It is involved in kidnappings, extortion, drug trafficking and other illicit activities and is considered as a terrorist organization by the GPH, with corresponding action in its records. Without having a strong leader, with activity only in the Sulu islands, and with limited popularity, it is not strong enough to challenge the agreement, at least in the short run. Given the focus of its activities, Abu Sayyaf can be characterized as a greedy spoiler, although it overtly has the ideology of a total one.

The Bangsamoro Islamic Freedom Fighters (BIFF) constitute another spin-off group, this time split from the MILF in reaction to the Supreme Court's ruling that nullified the Memorandum of Agreement on Ancestral Domain (MOA-AD). Local commentators consider it to be the most important group. Although it is currently depleted of supplies, it could undermine peace in the long run, especially since it is the only important group after the MILF to have a strong presence in Mindanao and its popularity is higher than that of the previous groups. Having as a clear objective the Moro independence, it is a total spoiler.

Like Abu Sayyaf and the MILF itself, the BIFF is the result of hard-line factions' disappointment with the MILF's negotiations with the GPH. Upon the signing of the CAB, in January 2014, the AFP took military action against the BIFF, taking control of the largest BIFF camp. The MILF supported the AFP in the operation, helping clear the area from civilians by warning them in advance of the attack. (SAIS group meeting, 12 March 2014) According to media reports (*GMA News Online*, February 2014), the MNLF



Islamic Command Council Chairman Habib Mujahab Hashim confirmed MNLF's alliance with BIFF in North and South Cotabato. The BIFF's seeking new alliances is a likely indicator of the group's current relative weakness. Nonetheless, if the CAB and the current peace process fail, the BIFF would be the receiver of a new wave of disappointed MILF supporters, which would strengthen and revitalize it.

### **The “Politico-Economic Complex”: Greedy Spoilers?**

“You see non-Moro names possessing swaths of land. You see the same names having mining concessions. And you see the same names in the Congress. The peace process is not only in Kuala Lumpur, it is also between the power players in Manila, where the MILF is not even included.” This phrase from a commentator in Mindanao provides the best introduction to the issues pertaining to the economic and political elites and interests in Mindanao.

The spoilers of the politico-economic complex have opposite potentials to the Islamic armed groups: they pose serious threats in the short run, but in the long run they cease to be potent if all goes according to plan with regard to the implementation of the CAB and the BBL. In the interim, they can either block the BBL in the Congress or challenge its constitutionality in the Supreme Court. In any case, once the implementation will start and especially if elections will be held successfully in 2016, they will be unable to reverse the status quo or affect the developments in any significant way.

In discussions with representatives of the Moro civil society organizations and NGOs in Mindanao, a triangle formed by traditional politicians, economic interests and private armies appears again and again, revealing a series of greedy spoilers. Politicians from Manila with economic interests in Mindanao (especially in mining) together with business groups collaborate with traditional politicians to protect their interests.

These traditional politicians are often *datus*, Moro leaders of major clans who exploit their power to gain from corrupt economic practices in Mindanao. They would be the last to accept the structure of the agreement, as it would take their power away. Traditional politicians, although popularly elected, are supported by the parties and power brokers in Manila through a symbiotic relationship, which restricts the options available to the people. Traditional politicians augment their legitimacy and voter base

through clientelistic relations and Manila's support, and in exchange they safeguard their political patrons' political and economic interests in Mindanao. Therefore, it has long served the interests of political and economic elites in Manila to keep them as the dominant political force in Mindanao rather than allow leaders of the rebel groups to gain power.

A revision of the status quo that would entail changes in the tax system, the ownership of natural resources, the legal system and the security apparatus would pose uncertainties to corporations. Business groups were one of the main groups that triggered the 2008 collapse. Even though there has been dialogue and understanding with the business community, they still pose a threat to the peace process.

With regard to the private armies, they are employed to protect private economic interests. In the case of CAFUs (Civilian Armed Forces Units), men of the government-backed militias are "rented" to private corporations. This would be a financial loss for the armed forces, whether at an official or an unofficial level.

### **The Minorities: Limited Spoilers?**

Two populations are caught in the crossfire between the GPH and the Moro people: the Christian communities who are a minority in the future Bangsamoro areas, and the Indigenous Peoples (IP). At present, both these populations appear willing to accept the FAB as long as their position, safety and rights under the new regime are guaranteed. Most likely, they would only pose obstacles if they felt threatened and only with the purpose of improving their position within the new status. Although they both constitute limited spoilers, they have different significance with regard to my horizontal classification: the Christian population can mostly affect developments in the short term, whereas the IPs pose a threat to peace in the long run too.

According to the FAB, Christian communities will be given the option to opt out of the Bangsamoro. This provision could only materialize in areas where the Christian communities are the majority – in most Bangsamoro areas, though, Christians are the minority. Still, under the FAB the rights of Christian communities are protected and, according to Cardinal Quevedo, as long as their position is respected they will accept the new status quo (SAIS group meeting, 19 January 2014). Nonetheless, some Moro

commentators expect that particular Christian groups will try to mobilize their close and strong allies in Manila to block the BBL or that they will file motions to challenge it at the Supreme Court level (SAIS group meeting, 16 January 2014). The last strategy has been used by Christian communities in the past: in 2008, they coordinated with traditional Moro politicians and successfully challenged the MOA-AD, first by filling temporary restraining orders and ultimately with the Supreme Court ruling it unconstitutional.

Regardless of what the Christian communities' actions will be, they can only affect developments in the short run. Their strength lies in their ability to take legal action and in the strong support they enjoy in Manila and internationally. They are potent political players. Yet, they have no means to pose a military threat, since until now they relied on the protection of the AFP. Therefore, if the BBL is ratified, they will not be able to reverse the change of the status quo and their significance will be reduced.

Furthermore, under the umbrella term Indigenous People fall the non-Christian, non-Muslim indigenous tribes of Mindanao. Although the IP have two representatives in the Bangsamoro Transition Committee (BTC), there are doubts about the extent to which they will be incorporated into the new regime. In the past they have been marginalized and they have already been let down once by the failure of the MOA-AD, which provided assurances with regard to their rights and lands. Being concerned about their position under the new status quo, they are, according to a Manila-based commentator, increasingly arming themselves and there are discussions for setting up a common strategy (SAIS group meeting, 22 January 2014). Regardless of the outcome of the peace process between the GPH and the MILF, if the IPs are not incorporated in the Bangsamoro and if their rights are not respected, it is possible that they will proceed to armed action in order to safeguard or improve their position. Therefore, this would be the case of a limited spoiler with a long term outlook.

Finally, in this category is also a particular case of a potential spoiler which was discussed by a Moro commentator. Despite assurances that the ARMM general governor will step down in 2015, there are concerns that the ARMM could file a motion to the Supreme Court requesting to complete its term. Such a motion could result in postponing

the 2016 elections; even though such a spoiler is rather a limited one, it could undermine implementation of the agreement.

## **Recommendations**

### To Address the Islamic Armed Groups

- **The GPH should coordinate with the MILF to take military action against the BIFF** – it should be confronted now that it is weak and its popularity is limited.
- **The GPH should take action against Abu Sayyaf** to prevent it from spoiling the process.
- **The International Contact Group, and especially Malaysia as facilitator, should carefully encourage a MILF-MNLF rapprochement.** The Bangsamoro Solidarity Forum should be further institutionalized.
- **The MILF should run a campaign informing the Moro people about the BBL**, the expected benefits and the timeframe within which all these will take place in order to manage expectations.

### To Address the Politico-Economic Complex

- **NGOs and civil society organizations should nationalize and internationalize the issue to raise public awareness and press for the BBL to be passed in the Congress.**
- **The MILF should reach out to the economic elites of Mindanao and the economic interests of Manila to discuss its economic objectives and calm the existing uncertainty.** For any economic policy to succeed, the ratification of the Bangsamoro law is a prerequisite.
- **The International Contact Group should encourage and facilitate this process.**

To Address the Minorities

- **The MILF should communicate emphatically and immediately to the Christian leaders and their communities that they intend to respect the rights of the Christian communities.**
- **The ICG should encourage cooperation between the GPH, the MILF and the Christian leaders** in order to address the concerns of the Christian communities by incorporating relevant provisions in the BBL.
- **The future Bangsamoro leadership should include IPs in the administration** to build trust, improve mutual understanding and enhance cooperation.
- **The BTC should cooperate with the GPH to include in the BBL provisions incorporating qualified ARMM personnel** to the Bangsamoro in order to alleviate relevant concerns and create incentive for ARMM's support.



## **Part IV: Security and Economic Challenges for Stable Peace**





# **From Successful Ceasefires to Stable Peace: Third Parties, Civilian Protection and Security Sector Reform in Mindanao**

**Oliver Russell**

The cessation of hostilities signed between the Government of the Philippines (GPH) and the MILF on 18 July 1997 developed through time and testing into a series of sophisticated ceasefire mechanisms. In the thirteen years, from 1997 to the addition of the Civilian Protection Component (CPC) of the International Monitoring Team (IMT) in October 2009, aspects were adjusted and lessons were learnt culminating in zero skirmishes during 2012. Given the duration of the conflict and the level of mistrust between the parties this is a highly impressive achievement and should be celebrated as such. This chapter will assess these mechanisms and ask why they have ultimately succeeded. It will stress that the hard won lessons of joint mechanisms operating from the local to the highest level with civilian and third party oversight should not be lost on the broader peace process. In fact, there are opportunities to further develop and institutionalize the mechanisms in such a way that may ensure that neither party falls at the final and highest hurdle; implementation

The signing on 25 January 2014 of the final Annex of the Framework Agreement on the Bangsamoro (FAB), the Annex on Normalization, heralds the beginning of a period of extremely delicate and uncertain politics building up to the May 2016 elections. It is crucial that ceasefire mechanisms are transformed rather than removed in this period. The Normalization Annex leaves room for a gentle transformation of the shared mechanisms to support a variegated and slow demobilization process, improved civilian protection, coordinated and inclusive security and police reform and continued trust building between both parties and the people of Mindanao. Therefore, the ultimate test of the mechanisms is whether they can adapt as both parties navigate the implementation of the peace.

## Ceasefire Structures

The structure and composition of the ceasefire mechanisms (see in *Fig 1.* below) are designed to maximize communication and trust. Their specific workings, mandates and protocols are critical. The ceasefire structure works at three levels: the Peace Panel Level, the Joint Coordinating Committee on the Cessation of Hostilities (JCCCH) level and the Local Monitoring Team (LMT) level. The respective peace panels are coordinated through the Malaysian facilitator; they are responsible for negotiating the resolution of a violation, should it reach their level. However, the day-to-day management of the ceasefire is orchestrated the Joint GPH-MILF CCCH. The CCCH consists of six members from each party approved by the peace panels. According to its manual, it is authorized by the peace panels to “relay orders to military field commanders of both parties once they have agreed to a cessation of hostilities.” It meets once a month and as need arises can inspect areas of hostility and establish field offices. The CCCH is intended to be proactive rather than reactive in implementing the peace. On 6 May 2002 it was agreed that the Ad Hoc Joint Action Group (AHJAG) should be added as a parallel committee to the CCCH due to a high rate of skirmishes caused by misunderstandings and opportunism while the GPH tried to address criminal elements in and around MILF strongholds. Coordinated with both of these committees Joint Ceasefire Monitoring Posts (JCMPs) are located in key areas and are staffed by both MILF and GPH troops who directly address violations. At this local level the role of LMTs is very important. They each consist of five members: one from the local GPH body, one from the MILF committee, one from a MILF nominated NGO, one from a GPH nominated NGO and one religious representative. The role of the LMTs, as stated in its manual, is to “conduct fact finding inquiries on matters referred to it by either CCCH...on alleged violations.” These mechanisms worked effectively through regular phone calls between the team, committees and commanders and consistent reporting and monitoring.

However, when serious violations occurred or when one side sensed a potential gain in breaking the ceasefire, such as when the Armed Forces of the Philippines (AFP) launched a campaign against the MILF central command in February 2003, it proved extremely hard to return from the brink of renewed war and rebuild trust in the system between opposing parties. Therefore, the key addition to the mechanisms was made in

September 2004 with the introduction of the IMT. Its mandate states that the IMT should “coordinate with the Joint GPH-MILF CCCH and the LMTs in the conduct of field verification and validation of reported violations.” The “politically impartial and operationally independent” third party reports directly to the peace panels and Malaysian facilitator while also pursuing outreach and supporting humanitarian rehabilitation, development and socio-economic projects to sustain peace. A small but important feature of the IMT is that it requires security to be jointly provided to monitors by both AFP and MILF troops. This allows crucial interaction and relationship building between troops on the ground. Added to the IMT in October 2009 was the formalized Civilian Protection Component (CPC), consisting of local civil society and volunteer monitors. This final layer gave local communities, trampled by conflict, a role in preventing further fighting. The role of the CPC is to “monitor, verify and report non-compliance by the parties to their basic undertaking to protect civilians and civilian communities,” as stated by its Terms of Reference. The concept of local civilian monitoring in the shape of the ‘Bantay Ceasefire’ had been in place since 2003, but this formalization under the IMT gave it further legitimacy and a power to hold parties to account.

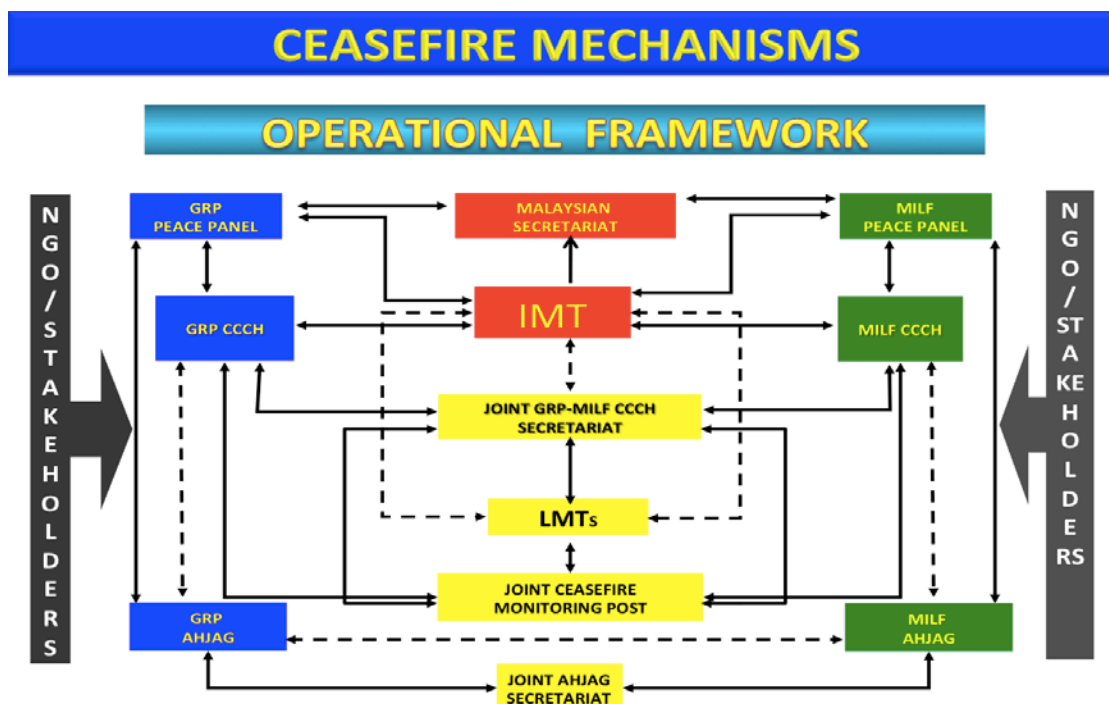


Fig 1. Source: Armed Forces of the Philippines – Peace Process Office

## **Keys to Success**

Each of the mechanisms has an important role to play. In interviews with various stakeholders this became clear as they identified different aspects as the critical element. The director of an INGO on the International Contact Group (ICG) named the LMTs and particularly the formalization of the CPC as fundamental to peace, as “peace is developed and ensured at the local level.” Meanwhile, the AFP’s 6<sup>th</sup> Infantry Division’s Spokesperson, Colonel Hermoso, argues that the AHJAG greatly increased trust between the parties and allowed for mutually beneficial cooperation on crime fighting (SAIS group meeting, January 2014). On the other hand, the Bangsamoro Islamic Armed Forces (BIAF) point to the JCMPs as being critical. This spectrum of opinion highlights the fact that different parties prioritize different needs, and just because one need is not immediately obvious to the other does not mean it is not essential. Nonetheless, both parties and international representatives see the introduction of the IMT as the key turning point. As Colonel Hermoso notes, the CCCH took some time to operate well. He puts this down, in part, to the old military mindset of ‘shooting first.’ An AFP program to stress the importance of ‘commandership’ in keeping the peace and an upgrade in the level of authority required to fire heavy weapons helped to develop the ceasefire but the introduction of the IMT “really made the difference.” The General Staff of the BIAF similarly point out that it requires “a lot of effort to convince people to respect” the ceasefire and build “trust and confidence;” the decisive change was “third party intervention” (SAIS group meeting, January 2014). While it is easy to measure the increasing success in implementation of the ceasefire it is less easy to measure the broader change in military attitude and tactics. One way is through their changing approach to civilian protection and internal reform.

## **Civilian Protection and Military Mindset**

As the peace process has developed there is no doubt that both parties have matured and improved in their approach to peace, communication and civilian protection. The AFP ‘Bayanihan’ or Internal Peace and Security Plan (IPSP) 2010 aims to reposition the military to follow its “original mandate” of “territorial defense duties” and allow the Philippines National Police (PNP) to take on the majority of internal security issues. The

plan also aims to change the military mindset and reform the institution of the AFP. Indeed the IPSP (2010, 18) notes “reform measures are geared towards professionalizing the armed forces and insulating the institution from partisan politics including partisan armed groups.” Moreover, according to the IPSP (2010, 18, 24, 28-29) the AFP should be led by new mantra and principles: “winning the peace,” “whole nation approach” and a “people centered security/human security approach.” It regularly, to the point of hollowness, uses terms such as “people centered,” “inclusivity” and “all stakeholders.” However, even reference to these terms represents a strong change in military mindset. More fundamentally, the IPSP (2010, 37) also advocates a more focused approach to peacebuilding:

“Developing peacebuilding capabilities is in acknowledgment of the AFP’s role in the entire process of building peace: from creating and sustaining conditions that disallow armed violence, in managing conflicts so they do not escalate to armed violence, in resolving armed conflicts and managing their effects on the affected communities, and in rehabilitation and renewal efforts when conflict is resolved.”

This is a striking change in emphasis, which appears to be borne out by the rhetoric of Colonel Hermoso arguing that the AFP in Mindanao have changed the paradigm within which they operate. He maintains that success is no longer about the body count but the continuation of the peace and insists that if someone were to ask him: ‘are you still a soldier?’ He would reply: ‘No, I’m a peacebuilder.’ His motto in Mindanao is to “demilitarize the conflict and humanize the soldier” (SAIS group meeting, January 2014). Colonel Hermoso is certainly more diplomatic than the average soldier, but the change he observes is real. Perhaps this change of mindsets is not as far along as he would suggest, but it is in motion and it has been made possible by the success of the ceasefire mechanisms. Soldiers have faith in the mechanism and the peace and have built a certain level of trust by working with the MILF.

In turn the BIAF has attempted to professionalize itself, in part to project legitimacy and discipline on its well established force of 15,000 troops but largely because they recognize the need to keep the ‘Moro people’ on their side. As the Chief of Staff is keen to impart, they have “separate laws and principles” and “rules of

engagement” and “peace objectives and responsibilities” just like, if not more so than, any conventional force (SAIS group meeting, January 2014). Article 34.4 of the Rules of Engagements carried in every BIAF pocket goes to specific lengths to state that when dealing with “wounded enemy combatants” BIAF members “do not mutilate. Don’t cut or burn palm trees or fruitful trees or ruin dwellings. Don’t slay sheep, a cow, camel or other animals except for food.” The Chief of the General Staff states that the BIAF is “a pro-people organization” and explains that when one unit is fighting, others are designated to inform and protect the civilian population. As noted, this makes tactical as well as humanitarian sense.

However, this is not so clear for the AFP, and while the ‘primacy of the peace process’ may have become entrenched, there is much more to do to support the primacy of civilian protection. Conversations, photos and videos (shared with SAIS by Human Rights Monitors in Mindanao, January 2014) suggest a blatant disregard for civilians in conflict on the part of the AFP in the recent past. It is easy to gain the impression that for the AFP there are new rules for peace but not for fighting. Therefore, should fighting break out, the old modes of conduct return to the fore. Critically, this is not only in the limited instances of skirmishes with the MILF. It is important that the AFP recognize that it cannot credibly have one set of principles for one conflict and another set for another. Reports of an airstrike on a beach party of civilians thought to be Abu Sayyaf Group (ASG) members or the systematic cordoning off and burning of 5,000 homes during the Zamboanga siege in September 2013 do not fit any human security orientated approach to conflict or peace. The AFP should be aware that how it operates in one arena impacts in another. In an area of overlapping allegiances and close knitted history such as Mindanao, can there ever be a sufficient level of trust between the MILF and AFP if the MILF and their support base witness such brutal tactics? There are also reports that the AFP continues to employ cynical tactics to protect itself against MILF attack, such as setting up checkpoints close to Moro populated villages and using Moro jipney drivers as convoy protection (SAIS conversations with Human Rights Monitors in Mindanao, January 2014). The sincerity of the military commitment to civilian protection and overall peace on both parties will be heavily tested during the implementation phase of the CAB and its annexes.

## **Challenges to Implementation**

The signing of the final Annex on Normalization heralds the next phase of the peace process. However, as MILF Chairman, Al Haj Murad Ibrahim acknowledges the “challenges ahead could be greater than the challenges surpassed in negotiations” (SAIS Interview, January 2014). After all there have been agreements before; it was at this point in 2008 that the Memorandum of Agreement on Ancestral Domain (MOA-AD) was deemed unconstitutional and the ceasefire fell apart. While the politics will be no less volatile, this time around the mechanisms are stronger and must be enhanced for implementation to have a chance.

From a positive point of view, previous agreements have allowed room for important lesson learning for the current process. For example, as a consequence of the failings of the MNLF integration process after the 1996 agreement, the MILF is adamant that they should not be integrated into the AFP. As one member of the BIAF General Staff put it, “we have not fought just to be integrated” (SAIS group meeting, January 2014). The coordinated joint security mechanisms proposed in the Annex on Normalization offer a much greater chance of success giving both parties equal stakes in the process. However, the negative effect of consecutively ‘improved’ agreements is that they encourage fragmentation and re-negotiation for those who are not satisfied.

Therefore, while the newly established Joint Peace and Security Teams (JPSTs), operating under the Joint Peace and Security Committee (JPSC) and ultimately the Joint Normalization Committee (JNC), will work to further build trust between BIAF and AFP forces and unite them with a common goal to “maintain peace and order” in areas of common concern, the negative consequences must also be strongly considered. The JPSTs role in the “tracking and documenting of private armies and other armed groups,” as stated in the Annex, could lead to more violence and a consequent loss of legitimacy for the MILF. Local populations may criticize the MILF for siding with the GPH against the people of Mindanao, especially if they do not see an improvement in their own situation. Such sentiment, contrary to the intended to effect of the JPSTs, may increase support for dissatisfied elements such the Bangsamoro Islamic Freedom Fighters (BIFF) and encourage defection from the MILF, as happened during their own split from the MNLF. The “plan for the disbandment of private armies...using diverse and appropriate

approaches” will be extremely sensitive and central to the success the agreement. A delicate and inclusive operation, supported by strong ceasefire mechanisms, may be able to break this cycle of marginalization but it will be further complicated as the MILF and local politicians prepare for the 2016 elections.

Attempting to neutralize threats to security as well as simultaneously manage the Bangsamoro Transition Authority (BTA) and develop a political party to compete in the May 2016 elections will be a major challenge for the MILF, not only in terms of capacity and legitimacy but also security. Local politicians may see it as in their interest to disrupt the transitional period and undermine the MILF in order to increase their own chances in 2016. Two issues are extremely important in this regard, the development of a respected and well-functioning police force and the sequencing and division of the normalization process. Without a strong police force to independently maintain law and order the BIAF and AFP forces, working together in JPSTs, will be distracted from their primary task of maintaining peace and build resentment as they inevitably approach problems from a political and military standpoint. The implementation of the FAB should be as far removed from what Zainudin Malang calls the “guns, goons and gold” (SAIS group meeting, January 2014) of electioneering in Mindanao. As such, a clear distinction should be drawn between the role of the initial PNP force and subsequent police force for the Bangsamoro and that of the JPSTs. In this respect the AHJAGs should work closely with the police.

Underlying any potential stability of the transition phase will be the continuity of the successful elements of the ceasefire mechanisms, namely joint, third party and civilian monitoring at every level with regular interaction and communication to build and maintain trust. The FAB states that the CCCHs, AHJAG and IMT “shall continue to monitor the ceasefire agreement until the full decommissioning of the MILF forces.” While successful decommissioning is fundamental to a sustainable peace, it cannot and should not be rushed. The confidence of both parties relies on their joint ability to enforce the ceasefire and at a time when the potential for instability is high the MILF should be able to maintain significant forces as part of the ceasefire committees and JPSTs. However, they should be well separated from the political wing of the MILF, which will run in the elections and manage the BTA. As the BIAF General Staff notes, “we are not



in a rush,” (SAIS group meeting, January 2014) and they should not be. The trust that has been gradually built over years could be lost in a week if the process is rushed and the BIAF feel they are being forced to surrender their weapons. This is not to say that symbolic and then gradual decommissioning should not begin but it is highly unlikely that other forces will have been unarmed by 2016 or that the security situation in Mindanao will enable full decommissioning before then. The Office of the Presidential Adviser on the Peace Process (OPAPP) acknowledges this and the Annex on Normalization sensibly does not place a strict time frame on it. The ceasefire mechanisms can and should be a part of the process as they “transition into other appropriate mechanisms in the normalization process.”

### **Recommendations**

Drawing on the observations above, in particular the lessons of successful ceasefire mechanisms including the importance of joint processes at every level, open communication and third party and civilian monitoring bodies, the following recommendations aim to ensure a stable and secure implementation of the FAB.

#### GPH and MILF

- **Retain the composition of all ceasefire mechanisms until after an exit agreement is signed and a well-staffed and trained Bangsamoro Police Force is operating.**
- **Do not rush the decommissioning process.** Focus on the condition for peace and security to incentivize decommissioning.

#### MILF

- **Formalize the distinction between the MILF and the BIAF as a political body and armed force with separate hierarchy.** Limit the BIAF role to joint security operations and allow the MILF to develop as an independent political organization.
- **Acknowledge that the political process of transition will require further compromise with local power holders and armed groups, some of whom**

represent Moro people. **Maintain an inclusive agenda** rather than isolate base support and reach out to BIFF and MNLF members who are open for dialogue.

#### AFP

- **Consider the importance of consistent policies toward civilians** to the continuation of peace with the MILF as well as in Mindanao overall.
- **Continue to implement and the monitor the Internal Peace and Security Plan.** Consider an independent review of implementation.
- **Recognize the significance of the MILF allowing joint camp management under the normalization annex** and make a good will gesture in return.

#### IMT and CPC

- **Continue to monitor and interact with the parties and civilians.** Monitor and preempt tension in the build up to 2016 elections.
- **Both bodies should play a monitoring role on the security level**, similar to that overall monitoring role that the Third Party Monitoring Team (TMPT) performs.

#### IPC

- **Recommend that the Bangsamoro Police Force be accountable to the regional as well as the national governments** in support of law 8851.
- **Include provisions for significant Moro representation in the police force.**

#### JNC

- **Ensure that the disbandment of Private Armed Groups (PAGs) does not undermine peace and stability and alienate the local population.** It should be a consultative and inclusive process.

# **DDR in Mindanao: Disarming Rebels and the Transition from War-Fighting to Policing**

**Ayeda Wondimu**

In every peacebuilding effort, one crucial aspect is the successful demobilization, disarmament, and reintegration (DDR) of the rebel forces. In general, the three components of DDR consist of the registering and disarming of ex-combatants, and provisions for their rehabilitation and reintegration through programs such as vocational training and financial support. Beginning in the 1990s, there has been increased emphasis on DDR in peace agreements. Yet, despite this growing recognition of the importance of DDR in establishing and maintaining peace, DDR is a complicated and multi-step process that is hard to implement. Moreover, failure to implement DDR can have enormous consequences as ex-combatants who are not integrated into the society often become spoilers in the peace process.

When the Philippine government signed the Final Peace Agreement (FPA) with the Moro National Liberation Front (MNLF) in 1996, there was an attempt, from both sides, to address DDR. However, despite the inclusion of DDR provisions in the final agreement, the process yielded mixed results. While a significant number of MNLF ex-combatants were integrated into the Philippines National Police (PNP) and the Armed Forces of the Philippines (AFP), DDR efforts faced many stumbling blocks. In the end, the failure of these efforts contributed significantly to the eventual breakdown of relations between the Philippine government and the MNLF. As the Philippine Government and the Moro Islamic Liberation Front (MILF) finalize the Comprehensive Agreement on the Bangsamoro, the DDR component is of immense importance, which both sides comprehend as they have dedicated the fourth part of the framework to the normalization process. In this chapter, I will analyze past DDR efforts – their strengths and failures. Having done so, I will examine the Normalization Annex, its provisions for current MILF combatants and provide some recommendations for strengthening the DDR process.

### **DDR Efforts with the MNLF**

When the Final Peace Agreement (FPA) was signed in 1996, it attempted to address the issue of normalization through the integration of MNLF combatants into the PNP and the AFP. “These three components of DDR – demobilization by granting political authority, disarmament through integration into the security services, and economic livelihood programs to reintegrate combatants into civilian society – were seen as means to end a long conflict.” However, the MNLF and the Philippine government had difficulty in finding a compromise on DDR and the final agreement only partially addressed the issue. While both sides agreed on the demobilization of the MNLF forces, the main issue of contention was whether the MNLF would join the national army as a unit – as the MNLF initially wanted – and would then form a standing army that is separate from the AFP or be integrated as individuals recruits. In the final agreement, it was decided that:

Integration of 7,500 MNLF members, 5,570 into the AFP, including 250 in the auxiliary services, and 1,500 into the PNP, plus another 250 items for special or auxiliary services (Final Peace Agreement, 1996, paras. 19.a, 20.a)<sup>16</sup>

Further, the ex-combatants would join as “separate units within a transition period, until such time that mutual confidence is developed as the members of these separate units are gradually integrated into regular AFP units deployed in the area of the autonomy (Final Peace Agreement 1996, para 20b)” (Santos 2010, 167).

The transition was initially allotted three years and while it cannot be considered particularly effective, it was not a complete failure either. According to Colonel Dickson Hermoso of the AFP, the integration of ex-combatants into the army was a difficult process due to the lack of trust and confidence on both sides. However, with training and candidate courses, they were able to be integrated into the army. Of the 5,750 MNLF members scheduled to join the AFP, the rate of attrition was only about 10%. As for the PNP, only 3% dropped out of the program with the majority who successfully integrated being placed in the Autonomous Region of Muslim Mindanao. It is difficult to truly discern the outcome of the integration process since the government’s account differs from MNLF members, with the latter arguing that the process has been less than

---

<sup>16</sup> In this instance, 250 items is referring to former MNLF combatants.

satisfactory. However, assessments conducted of the AFP in the years preceding integration indicate that the process has more or less worked; “one in-depth assessment from 2004 of attitudes in a single battalion suggests that initial resistance of AFP troops to the idea of MNLF integration has been to a large extent overcome. The study is [...] is thought to be representative rather than exceptional among military units affected by the integration process (Depayso 2004)” (Santos 2010, 173). In addition to the internal integration efforts, the United States and the United Nations also contributed through various economic development programs such as the Livelihood Enhancement for Peace project.

In this regard, DDR efforts were met with some success. However, DDR is a multi-step, multi-faceted process, one which was not properly addressed in the FPA. Additionally, even the components of DDR that were included in the final agreement were not properly implemented, a fault that can be attributed to both sides. While more than 7,000 MNLF members were integrated either into the army or the police, intervention involved less than half of the estimated 17,700 MNLF fighters thought to be active at the time the FPA was signed. Additionally, among the 7,000 integrated soldiers, a significant number were not fighters themselves but rather proxies. “Many, if not most of the MNLF individuals integrating into the security services were either older combatants or relatives of fighters who bought their way into the AFP or PNP. [...] Because of either MNLF leaders’ orders or personal preferences, most active combatants did not apply for integration, preferring to wait and see how the FPA was implemented” (Martin 2011, 185). As a result, the MNLF was never completely demobilized with some members forming their own factions including kidnap-for-ransom gangs and terrorists groups.

Another clear failure was on the issue of disarmament. The MNLF’s insistence on remaining a revolutionary organization meant that it was able to refuse disarmament. Accordingly, the only combatants who were required to give up their weapons were those being integrated into the AFP. The lack of trust between the government and the MNLF and the strong cultural norms surrounding the ownership of personal weapons made disarmament an unlikely scenario.

There were additional factors that contributed to the breakdown of DDR efforts.

While the FPA was signed in 1996, the Philippine Congress did not pass legislation to implement the FPA until 2001. In the five years in between, the nascent levels of trust and confidence engendered by the FPA had dissipated and there was a sense amongst the MNLF members that they were being betrayed yet again by the government. Along with this rising tide of frustration, there has been an increase in radicalization of the MNLF, and in particular its leader Nur Misuari. In general, the notion of DDR was never properly addressed in the FPA as key issues such as disarmament and integration were overlooked. “One critical assessment of MNLF integration is that it is really more a subset of the overall livelihood and socio-economic program for ex-combatants than an effective program for demobilization. The assumption underlying the government’s policy seems to be that demobilization would somehow naturally follow the advent of autonomy for peace and development” (Santos Jr. 2010, 179). As a result of this apparent oversight and the subsequent failures of DDR efforts, the MNLF relationship with the Philippine government has deteriorated, there has been a proliferation of kidnap for ransom groups and terrorist factions, and ownership of firearms has stayed constant within the region. While there have been some successful aspects to these efforts, the FPA can largely be considered a failure regarding DDR.

### **MILF and the Path Towards Normalization**

Nearly two decades after the Final Peace Agreement, the Philippine government has almost finalized its agreement with the Moro Islamic Liberation Front (MILF), with the signing in January 2014 of the fourth and final Annex on Normalization. Indeed, the fact that the Comprehensive Agreement on the Bangsamoro came long after the FPA has been somewhat of a blessing as it gave the parties time to assess DDR efforts after 1996 and learn from their shortcomings. The fourth Annex on Normalization defines the concept as, “a process whereby communities can achieve their desired quality of life, which includes the sustainable livelihood and political participation within a peaceful deliberative society.” The Annex includes various DDR provisions in a more thorough manner than previous agreements.

## **Disarmament and Demobilization**

According to the MILF Bangsamoro Islamic Armed Forces (BIAF), the term disarmament has negative connotations as it implies the surrender of MILF to the government. Additionally, the BIAF also don't wish to undergo decommissioning while the threat of other armed groups remains. That is not to say the MILF discarded the idea of giving up their weapons, but rather they view the notion of disarmament differently than decommissioning – a process which they perceive to be more balanced. Consequently, the Annex emphasizes the agreement as one of partnership with both parties contributing equally. Under the decommissioning, all MILF weapons are to be collected and put beyond use. The key mechanism to carry this out is the Independent Decommissioning Body (IDB) that will oversee the process. The IDB will be composed of three foreign experts and four local experts that are to be jointly nominated by both parties. Once assembled, the IDB will be tasked with the verification and registration of BIAF members and weapons and with the subsequent plan for weapons collection. The transition period for decommissioning is thought to be two years as both parties aim to sign an exit agreement by 2016, indicating that all commitments have been met. Further, 2016 also marks the election for the Autonomous region and in order for the MILF to successfully transition from a revolutionary organization into a political party, it must go through all the various steps of decommissioning. Currently, the MILF and Third Party Monitoring Teams (TPMT) are discussing the specifics on decommissioning and one option they are considering is decommissioning by camp. The first step taken towards decommissioning has been regarding women and auxiliary forces. It is important to note, that decommissioning doesn't mean the removal of weapons but rather, ex-combatants now must constrain their gun ownership to the limit set up by the national law which caps gun ownership to 15 guns per person.

Likewise, the new autonomous region will use an Independent Commission on Policing (ICP) in order to organize a new Bangsamoro Police force that will answer both to Bangsamoro government and the Central government, with the PNP being deployed until the establishment of the new police force.

The Philippine government has agreed to pay for decommissioning and will set up a special fund geared towards these efforts. In particular, a trust fund will be created in

order to set up socio-economic programs for ex-combatants. The annex mentions that it is hopeful that international actors will financially support these programs as well.

### **Integration**

Whereas the previous agreement saw MNLF ex-combatants joining the AFP and the PNP, the MILF has been adamant in refusing this option. In the aftermath of the MNLF agreement, there were skirmishes and fighting that occurred between the MNLF and the AFP, as well as several run-ins between the PNP and new factions from the MNLF. For the MILF, this was perceived as instances where former MNLF members had to fight their own kin. In order to avoid the same fate, the MILF have made it clear that integration will not be part of the new agreement. The Annex makes it clear that the AFP will effectively have to leave the region with the only remaining AFP being those required to maintain national defense and security. However, a significant number of current MILF members will undoubtedly join the new Bangsamoro Police Force. For those members of the BIAF who will not join the police force, the Normalization Annex plans to implement a myriad of socio-economic development programs that will train ex-BIAF members.

On an interesting note, the transition period will also see the AFP and BIAF joining forces in order to confront the threat of Private Armed Groups (PAGs) such as the gangs that kidnap for ransom. The collaboration under Joint Peace and Security Teams (JPST) would mark an instance in which both forces are acting on equal footing.

### **Challenges and Limitations to DDR**

In the normalization annex, the agreement points to a matrix that outlines the exact sequencing and phasing for the transition. However, the matrix hasn't been made public yet. The transition period is currently given two years until the next election; however, DDR will require a much longer timeframe. In particular, the implementation of vocational training for ex-combatants has to be a long-term effort. Without the phasing and sequencing plan for decommissioning, it is difficult to ascertain whether the program will have a chance to succeed given the challenges it will face.

Nonetheless, even without the specifics for decommissioning, we can identify



certain limitations that are likely to come up in the near future. For instance, in meetings, the BIAF forces were vocal about their concern over other armed groups in the area. It will likely take considerable effort and time to neutralize these threats, but until then the BIAF forces are reticent to undergo decommissioning. Another challenge will be the issue of the joint normalization committee that will oversee the normalization process, but once again the exact details have yet to be released. Whether it will set up a long-term plan to oversee the DDR of BIAF forces remains to be seen.

There are also other challenges arising from both the GPH and the MILF. On the government's side, while the President has been acting in good faith, the Philippine Congress has to pass the Basic Law to create the autonomous region. There is concern that some congressmen do not approve the Framework Agreement and will act as spoilers. Furthermore, one of the key aspects of the Normalization Annex has been certain confidence-building measures such as providing amnesty for ex-combatants in the long term. The President has stated that he will not consider amnesty until the Basic Law passes and until then, arrest warrants have been suspended. Nonetheless, since this agreement was signed, MILF combatants have been arrested. While these arrests have been quickly overturned, it is still worrying that such instances continue to happen. On the MILF side, the issue will be whether they are able to set up the various committees and teams necessary to push through this transition in the given time period.

## **Recommendations**

### For the Philippine Government and Transitional Authorities in Muslim Mindanao

- **Reduce the proliferation of firearms:** Firearm ownership is very common in the region and has the potential to destabilize the newly established peace. The GPH and MILF should conduct a region-wide program to reduce private gun ownership.
- **Provide a long-term DDR plan:** Currently, the plan for decommissioning has been projected only for the transition period. However, taking into consideration the lengthy and complicated nature of DDR, both parties should plan on carrying out the program beyond this transition period.
- **Set-up an independent body to verify the DDR process:** Currently, the IDB has a mandate to conduct inventory of BIAF forces, design and implement a weapons

retrieval plan, and develop a schedule for decommissioning. As part of providing a long-term DDR plan, an independent body should be set up that will verify the DDR process on a yearly basis.

- **The incorporation of women in the DDR process:** During the demobilization and integration phase, women combatants are often forgotten or simply lumped in with their male counterparts. However, their needs and the manner in which they can reintegrate back into society can be quite different. As it stands, the Annex mentions, “Special socio-economic programs will be provided to the decommissioned women auxiliary forces of the MILF.” While this is a commendable first step, it needs to be emphasized as the transition period begins.

#### For International Actors

- **Set up livelihood development programs geared towards ex-combatants:** Recognizing the possibility of ex-combatants becoming spoilers in the future, one of the effective methods of promoting peace in the region is to **help them integrate into society through such programs as vocational training**. USAID has, in the past, worked on programs that successfully integrated ex-combatants from the MNLF. Similar programs should be designed and implemented, geared towards BIAF forces.
- **Work with international actors for police-training:** International actors such as Australia, Malaysia, and the United States to a lesser extent, have expressed support for the Comprehensive Agreement. Both GPH and MILF should reach out to establish an outside training program for the new Bangsamoro police force. A potential challenge during early stages of peace is the lack of a properly trained police force, as they are primarily responsible for establishing rule of law.

# **Post-Conflict Economic Reconstruction in Mindanao**

**Cormac Sullivan**

A durable resolution of the conflict in Mindanao requires economic development. Creating effective institutions for economic governance and building a conflict-sensitive development plan must be priorities for all those who want the peace process to succeed.

Without economic growth many of the policies of post-conflict reconstruction advocated in this report will be insupportable. For example, growth is necessary to finance the provision of a well-trained police force and a functioning system of courts and judges (Snodgrass 2004); all of which are necessary to ensure the future security of the state and provide for the rule of law. This is to say nothing of the need for employment as a source of societal stability (Cramer 2011).

It is perhaps clearer still that the inverse relationship also holds: without conflict management economic growth will be subdued. Most demonstrably, reversion to violent conflict will induce further destruction and perpetuate economic underdevelopment. However non-violent conflict also has wide-ranging and more subtle effects on development. This occurs through several channels, for example the low levels of trust that are witnessed in post-conflict societies make the provision of public goods extremely difficult (Pottebaum and Kramer 2001). Similarly the uncertainty and risk-aversion induced by the experience of conflict provide weak economic and psychological incentives for entrepreneurship and private sector development (Snodgrass 2004).

Following many decades of fighting, the provinces of Mindanao are the poorest in the Philippines. This poverty fuels grievances toward the national government. It also facilitates local militias and organized crime. The road to prosperity is long and fraught with obstacles. Evidence from other post conflict settings indicates that an immediate economic ‘peace dividend’ is very difficult to engineer – the majority of conflicts find that economic activity shows almost no increase following the outbreak of peace, due to the massive restructuring costs when moving away from a war economy. This is particularly true when the security situation remains tense.

This chapter sketches the economic position of territories affected by the conflict in Mindanao, outlines current and planned initiatives to promote development and

concludes with a series of recommendations on how this process, and the future of the region, may be improved. This report highlights four major areas that need greater attention:

1. Funding sources and levels
2. Development planning
3. Economic governance and institutional capacity
4. Rehabilitation of former combatants

Of particular concern is the rush to complete economic aspects of the peace process before the announcement of the draft basic law (BBL). The Bangsamoro Development Plan has largely been formulated between February-April 2014. Similarly, progress on the revenue sharing formula between the central government and the Bangsamoro, a central plank of the Wealth-Sharing Annex, has not been forthcoming. These are details that require careful consideration if they are to contribute to a prosperous Bangsamoro and the short timeframe on these issues is worrying.

### **Overview of the Mindanao Economy**

Mindanao is a fertile agricultural center that has traditionally provided the bulk of Philippine agricultural exports. The major industries in the Bangsamoro territories are forestry, pastoral agriculture and fisheries. However, following decades of conflict the region has become highly impoverished. In 2009, nine of the ten territories with the lowest Human Development Index (HDI) in the Philippines were in Mindanao. Similarly all but one of the ARMM territories is in the bottom ten. In 1997 only one of these was found in the bottom ten (the island province of Sulu). With an average HDI of just over 0.35 the provinces of Mindanao now compare to Afghanistan or Liberia in terms of human development. This provides a stark reminder of the scale of the challenge facing those working for economic reconstruction in Mindanao.

There are divergences of opinion between those who believe this underdevelopment is caused by persistent government neglect and those who believe it reflects the painful effects of war. Whatever one's beliefs about how the current situation arose (both are clearly true to some extent) it is important to emphasize that development will not come about merely through the creation of the Bangsamoro itself. Self-

governance has many merits but it will not lead to better material outcomes without serious political and economic reform.

Following the 1996 agreement the MNLF-operated ARMM comprehensively failed to deliver an improvement in living standards. The post-1996 experience contains many lessons for policy makers. The first is the difficulty of the task that now confronts the Bangsamoro – the MNLF's good intentions were not translated into good governance and ominously their period in government, dealing with local politicians, damaged the integrity of the organization. The second is that short-term economic results are vital for securing widespread support; the MNLF could not do this and this is partly why they were supplanted by the MILF. Thirdly, it is necessary to get clear commitments from the government of the Philippines. A crucial and constantly overlooked factor in the failure of the earlier peace process was the disruption caused by the East Asian economies crisis of 1997. This was a major event in modern economic history, which was hugely debilitating for the wider East Asian region including the Philippines. Against this backdrop it is completely believable that the agreement envisaged did not materialize, and in particular that government funds were not forthcoming. However, it appears that the agreements were vague enough to allow the government of the Philippines to credibly claim to be upholding the text it had agreed to.

### **Funding the New Bangsamoro**

The Bangsamoro has been guaranteed shares of tax revenues and mineral rights through the Annex on Wealth Sharing. However the major source of its funding will be the bloc grant. This is designed to provide all regional governments of the Philippines with their funding allocation. It has been agreed that the Bangsamoro will have its own formula for the calculation of the bloc grant. However at the time of writing this formula, and ultimately the revenue that will be made available to the Bangsamoro entity, was still being negotiated.

The tax revenues that will be collected by the Bangsamoro exclude customs and excise duties, which are the major source of local tax revenue. The Bangsamoro's ability to tax local economic activity is unlikely to provide significant short-term revenues, since economic activity in the region is so depressed and its own tax collection facilities are

still being developed. Given the pressure for the Bangsamoro to create immediate results in order to generate confidence in the new administration, the lack of sources for near-term funding should be particularly worrying.

Similarly, while many in the Bangsamoro are optimistic about the use of natural resources, particularly offshore oil and gas, to fund development, very few of these resources have been prospected by the mining companies who will ultimately have to get them out of the ground. Therefore, no one knows how valuable or large these resources are, and it is going to be roughly a decade before these resources begin to generate revenues. Again, the lack of near-term funding is worrying for regional stability.

The deliberations over the block grant will prove crucial to the Bangsamoro's ability to function in the coming few years. For this reason it may be beneficial to consider front-loading funding or compensating for the absence of tax and other revenues in the post-war economy. It is vital that the block grant is agreed quickly; this should be a priority for the transition commission.

Funding from the Mindanao Trust Fund for Reconstruction and Development, JICA's J-Bird program and the Philippine Government's 'PANAMA' program indicates that there is political will and resources from across the national and international community. The challenges going forward will be to make this funding sustainable and to ensure it is delivered in a manner that is planned and incentivizes good governance.

### **Development Planning**

Development plans are useful for ensuring that there is a unifying framework that the multitude of economic actors in Bangsamoro can work with. Given the numerous different governmental organizations (Government of the Philippines, Bangsamoro, LGUs, World Bank, international development agencies) and non-governmental organizations involved in the process, co-ordination is very important. However, the current plan is being rushed through for two reasons: to synchronize with the publication of the draft Bangsamoro Basic Law and to activate funds from donors, many of which are contingent on a development plan being in place.

The limited progress on the Bangsamoro Development Plan is worrying. That the process has been rushed through from February to April 2014 does not augur well for the

administrative capacity of the Bangsamoro Development Agency (BDA) and the wider apparatus of the new Bangsamoro. However, more worrying still is that the administration feels compelled to provide a plan in order to support the announcement of the Basic Law. In order to be successful the plan needs to be clearly thought out and devoid of political influence. At the current time it is neither. In addition the challenge of managing the Bangsamoro population's high expectations is unlikely to be well served by explicitly tying the many merits of the Basic Law with promises of transformative development.

The reported change in emphasis away from planning the whole six-year cycle towards a focus on the transition period is a welcome development. Moves to formalize this change in emphasis should be made so as to allow for revised plans for later years.

Finally, on a substantive note, the BDA has stated its intention for the development plan to focus on fisheries, agriculture and livestock. Such a *status quo* approach is worrying as the three industries are such close substitutes, leaving the Bangsamoro hugely vulnerable to fluctuations in world food prices. Furthermore, there appear to be no clear plan to boost or co-ordinate internet connectivity in the region. That such a key resource is seen as marginal to the planning process is remarkable.

### **Governance and Capacity Building**

Economic governance is crucial and takes numerous forms. The Bangsamoro Development Agency needs far more investment, as does the new training body for the region. The Bangsamoro Leadership and Management Institute, designed to build local technical capabilities appears to be particularly poorly resourced, with little progress being made on providing a local center for skills training. These organizations currently lack technical expertise and this leaves them highly dependent on the World Bank and other outside agencies. In order for the development process to be truly locally led and attuned to local needs, it will be necessary for these bodies to see each other as equals. Where there are pronounced differences in technical capacity this will not happen.

There are two things that the Bangsamoro government can do to promote good governance. The first is to ensure that the hiring process for senior jobs is as meritocratic as possible. The second is to reach out to the government of the Philippines in order to

take employees on secondment for a year in order to help with vital administrative tasks and impart professional experience to younger staff. This is particularly vital for apolitical bodies such as the Audit Commission, which will be crucially important to overseeing revenues coming in and out of the Bangsamoro.

### **Economic Opportunities for Former Combatants**

A key challenge for both development and peace will be to provide livelihoods for former MILF combatants without destabilizing the broader political environment. Satisfying the needs of combatants is imperative given their potential for disrupting the peace process. However, there is currently surprisingly little literature on this topic. Very few post-conflict societies have resources comparable to that of the rapidly developing Philippines.

The peace process must satisfy the demands of the MILF's rank and file members. A number of former combatants will be given employment in the police force. However, since many of these combatants have known little other than conflict, it will be necessary to institute a comprehensive training program for those of working age. In addition, given the length of the conflict, many of the combatants are likely to be beyond working age. Given their seniority, something will need to be done for these soldiers too. This could either entail some form of pension or the option to transfer their entitlement to training to a family member. Such a program will need to be oriented around the needs of the Bangsamoro economy.

However, such a program generates several problems that will be difficult to overcome. First, when programs have been directed specifically towards combatants they have tended to promote understandable resentment from local populations. In the case of the Philippines, where there is already considerable reluctance to allocate greater resources to Mindanao in the wider population, this could prove particularly hazardous. Second, similar programs have proven very difficult to wind down because of the political leverage held by armed groups in post-conflict situations. This is damaging; in order to be effective, access to training and government funds must ultimately be based on ability and need respectively.

This report recommends that the government operate a rehabilitation program for former combatants, in partnership with the MILF who should retain an oversight role.



This will allow the program to be kept off the books of the Bangsamoro government, making it easier to wind down. It is also imperative that the program be adequately financed, and the government of the Philippines is the only local body with sufficient capacity.

Finally, it will be necessary to find jobs that satisfy the demands of senior MILF figures. This issue is similar but distinct to the issue of the transition of the MILF to a political party (see chapter 11 by Benjamin Merrill in this volume). In this instance the concern is more with senior roles in the civil service and government agencies. The MILF will need to guard against the impulse to reward members with positions crucial to the functioning of the transitional administration. Striking a balance that satisfies everyone while maintaining the good functioning of the Bangsamoro will provide a challenge to the MILF. However showing favoritism in the allocation of key offices will alienate supporters and undermine confidence in the administration.

### **Recommendations**

The Bangsamoro faces several challenges if it is to create a sustainable economy in the region. After decades of war economic activity is highly depressed and the people of the Bangsamoro are highly impoverished. Expectations for the post conflict period are high; this is dangerous. It is necessary for the transition commission to be realistic about what can be achieved, particularly when there remain several security threats. A comprehensive plan for development needs to be drawn up, and this plan should be integrated with a large-scale program to retrain former combatants. If the Bangsamoro is to succeed it will need assistance from the government of the Philippines, both in terms of increased funding and technical assistance.

#### To the Government of the Philippines

- **Increase funding allocated to the region incrementally over the transition period.**
- **Provide funding for a comprehensive program to rehabilitate MILF combatants.**
- **Explore possibilities for expanding this eligibility to MNLF, BIFF and other rebel groups in due course.**
- **Work with the Bangsamoro entity to encourage foreign aid and investment.**

To the MILF

- **Ensure that during the transitional period institutions are created that are independent and capable of delivering immediate results.**

To the Bangsamoro Development Agency

- **Only publish the sections of the Bangsamoro Development Plan that concern the transition period when publishing the BBL.**
- **Delay the publication of the entire Bangsamoro Development Plan until late 2014.**
- **Publish a brief document outlining the major development challenges that will need to be overcome in the following 5-10 years with the BBL.**
- **Diversify away from the current focus on the core pillars of ‘agriculture, fisheries and livestock.’**
- **Work with the government to establish opportunities for experienced economists from the Government of the Philippines to be seconded to the BDA for the duration of the transition period.**
- **Immediately establish a Bangsamoro Audit Commission.**

To the World Bank and other International Actors

- **Recognize the importance of conflict dynamics for the economic development of the region.**
- **Assist the MILF and the BDA in formulating a sustainable plan over the coming months.**
- **Allow limited funds to be released in advance of the Bangsamoro Development Plan for priority projects and routine maintenance.**

# **Delivering Foreign Aid to Mindanao: Challenges and Opportunities**

**Ryan Whalen**

Since the signing of the Framework Agreement on the Bangsamoro (FAB) between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) in October 2012, and more recently after the final Annex on Normalization was signed in January 2104, international aid donors have publicly pledged increases in the flow of assistance to the conflict-affected areas of Mindanao. The current administration, headed by President Benigno Aquino III, has demonstrated a strong commitment to government transparency and the peace process with the MILF, which has improved the confidence of the international community to invest in Mindanao. However, development assistance in the past has been plagued by a lack of donor coordination, weak local capacity to implement development programs, and volatility in aid delivery. This paper will examine the current aid landscape in the Philippines, challenges to aid delivery to Mindanao, promising prospects for the future of Mindanao aid, and offer recommendations for various aid stakeholders.

## **Aid Landscape in Mindanao**

Official Development Assistance (ODA) is significant to the Philippine economy as a whole, representing about 25% of the government's capital outlays, though it represents less than 1% of total GNI in the Philippines (USAID 2012). A variety of bilateral and multilateral donors – including the governments of Japan, the United States, and Australia, in addition to organizations such as the World Bank and the United Nations – contribute development assistance to the Philippines for a variety of projects, ranging from concessional loans for infrastructure development to grants for humanitarian assistance during crises.

Japan is the largest bilateral ODA donor to the Philippines, contributing roughly \$496.5 billion in 2013 (Piccio 2013), and has a significant presence in Mindanao, largely through the Japan-Bangsamoro Initiatives for Reconstruction and Development (J-

BiRD). Japan also has a strong presence in many partnerships in the region, spearheading the development efforts of the International Monitoring Team (IMT) and working closely with many Bangsamoro entities. Aid workers with projects in Cotabato City even noted a Japanese presence at meetings for the Mindanao Trust Fund, a World Bank project to which Japan does not directly contribute funds (SAIS group meeting, 21 January 2014).

The United States, reflective of its historically close relationship with the Philippines, is another significant bilateral donor. Through the United States Agency for International Development (USAID), the US government is the largest donor of grants to the Philippines, and has traditionally had a strong focus on Mindanao (USAID 2012). However, USAID's Mission in the Philippines shifted its strategy in Mindanao in 2012, focusing on smaller, more targeted projects to strengthen local governance and civic engagement in six of the most conflict-affected areas of the region, as opposed to broader investments in infrastructure, education, and agriculture that covered the whole island of Mindanao. As a result, the Mindanao program was reduced from 60% of the Mission's budget to 10% in 2012, though significant portions of USAID funds outside of the official Mindanao program still benefit economic development projects in the Mindanao region.

Other bilateral donors to the Philippines include the Australian and Korean governments, as well as several countries in the European Union. Although China does not have a substantial presence in Mindanao, the Chinese government provides concessional loans to the Philippines for various infrastructure projects, and may play a larger role in the region in the future. Multilateral donors are comprised of international financial institutions such as the World Bank and the Asian Development Bank, which issue low-interest loans for development projects, as well as international organizations such as the United Nations, which has several offices in Cotabato City and provides significant humanitarian assistance to the conflict-affected areas.

In supporting development in Mindanao, Steven Rood of the Asia Foundation identifies two particular areas in which donors can contribute: supporting institutions created by the peace process and scaling up development projects that have been successful (Santos 2014). In terms of institutions established by the peace process, the Bangsamoro Development Agency (BDA) was created in 2001 as a part of the MILF to

help manage “relief, rehabilitation and development projects” in conflict-affected areas of Mindanao (BDA Website). Several international donors, most notably JICA, have been active in providing technical assistance and other resources in an attempt to enhance the capabilities of the BDA and transition the organization from an implementer to an overseer of development projects. The BDA has been charged with administering the Mindanao Trust Fund (MTF), a project of the World Bank funded by various bilateral and multilateral donors meant to supplement existing aid to the region, particularly in conflict-affected communities (World Bank).

## **Challenges to Aid Delivery in Mindanao**

### Aid Volatility

Since the flare-ups in violence and the need for humanitarian assistance to Mindanao is often unpredictable, coupled with the fact that the Philippines is prone to natural disasters such as earthquakes and typhoons that can strike at any time, non-governmental organizations (NGOs) and local authorities often encounter problems of volatility in aid delivery to conflict-affected areas of Mindanao. One NGO employee in Cotabato City whose organization receives funding from donors like the Japan International Cooperation Agency (JICA), USAID, and the UN explained that her NGO did not receive funds marked for relief programs for internally displaced persons (IDPs) in the aftermath of Typhoon Haiyan because aid was redirected to relief efforts in the typhoon-affected areas on the central Philippines islands (SAIS group meeting, 19 January 2014). This issue has also been documented by organizations in Manila, with Rood noting that “recently donor attention has been focused on the need for relief and recovery from the devastation caused...by Supertyphoon Haiyan,” diverting focus away from the ongoing conflict in Mindanao (World Politics Review 2014).

Such volatility in aid delivery makes it difficult for NGOs to plan activities and relief delivery. The NGO worker from Cotabato City explained that her organization was forced to focus on less immediate and resource-intensive programming such as training and advocacy work while waiting for the donor funds to be received, even though there was an immediate need to get food and shelter to IDPs. The problem in volatility is compounded when violence breaks out in Mindanao, causing a sharp rise in IDPs who

need immediate relief assistance. Organizations like the Mindanao Human Rights Action Center (MinHRAC), which often works directly with IDPs, have documented delays in humanitarian assistance from organizations such as the UN at critical points in the aftermath of outbreaks of violence, most recently during the fighting between the Armed Forces of the Philippines (AFP) and the Bangsamoro Islamic Freedom Fighters (BIFF), a breakaway group of the MILF, in late January 2014.

### Donor Fragmentation

Following the 1996 peace agreement between the GPH and the Moro National Liberation Front (MNLF), international donors moved quickly to increase development assistance to help the peace process and general economic development in Mindanao. An increase in donors coincided with a proliferation of NGOs in the region due to increased optimism for the prospects for development in Mindanao in the wake of the peace process. The GPH has traditionally held a “receptive attitude” to aid in the conflict zone and has actively encouraged contribution of donor funds to the region (Parks, Colletta, and Oppenheim 2013, 120).

The increase in both the number of donors and total amount of funds for development in Mindanao has created a problem of fragmentation in aid, in which an increase in the number of donors creates large overhead costs for aid recipients due to the administrative and reporting requirements of each individual donor (Kharas 2007). This leads to aid recipients spending more resources on administrative tasks, and a smaller proportion of total aid reaching the ground level. A proliferation of donors also creates challenges with coordination and competition, as various donors propose projects that may have overlapping – or, at times, conflicting – objectives and goals.

Institutions such as the Mindanao Trust Fund can help to increase coordination between donors and reduce the administrative requirements for aid recipients, by channeling aid from multiple donors through one fund and bringing donor interests and objectives together in one mechanism. However, as identified in the Asia Foundation’s *Contested Corners of Asia* report, “although donor coordinating and financing mechanisms have been established...there is little evidence that these have been able to go much beyond information sharing to establishing a joint strategy and program

development for addressing the issue of donor competition and fragmentation” (Parks, Colletta, and Oppenheim 2013, 124). As the peace process between the GPH and MILF moves closer to a comprehensive peace agreement, donors have once again pledged an increase in aid to Mindanao, and stakeholders supporting development in the region should work to minimize fragmentation and improve donor coordination.

### Weak Local Capacity

The delivery of international assistance is also affected by a weak local capacity to implement development projects, caused by both fragile institutions and corruption amongst local officials. One NGO worker in Cotabato City noted that officials at the local *barangay* level often coerce NGOs to inflate budgets in project proposals in order to pay off local government officials (SAIS group meeting, 19 January 2014). Human rights groups working in Cotabato City have expressed concern to aid donors about corruption at the local level, encouraging them to deliver humanitarian assistance through various other channels, but many donors have been reluctant to change delivery methods (SAIS group meeting, 20 January 2014).

The Asia Foundation finds that “patronage and corruption are so deeply entrenched [in Mindanao] that the well-designed plans and aims of donors rarely result in transformative impacts, and more often than not, actually reinforce traditional political power and patronage structures” (Parks, Colletta, and Oppenheim 2013, 120). Competition for aid can also work to exacerbate existing horizontal conflicts, as local elites often have the ability to capture aid marked for development and use those resources to fuel inter-elite competition in the region.

Issues with corruption and competition are compounded by the multitude of government agencies all working to plan and coordinate development assistance in Mindanao. While the BDA coordinates development projects and aid delivery through mechanisms like the Mindanao Trust Fund, it does not have the capacity nor the authority to oversee all development projects in the region. Various government agencies, including the Mindanao Development Authority (MinDA), the National Economic and Development Authority (NEDA), as well as regional and local governments all play roles in coordinating aid delivery and implementing development projects. The multitude of

organizations working in this sphere can lead to competition for aid resources and confusion over which agency's plans should be followed when designing a development intervention. In order to increase efficiency in coordinating aid delivery and projects, the operations of these agencies should be better streamlined, or even consolidated into one overarching organization that oversees development efforts in the region.

## **Promising Prospects for Aid to Mindanao**

### **Success of Community-Driven Development**

International aid donors have recently placed greater emphasis on community participation in development projects, ensuring that all stakeholders involved in any given intervention have the opportunity to help design the project and give feedback. Community-driven development (CDD) has been embraced by local officials in Mindanao, including Dr. Saffrullah M. Dipatuan, Chairman of the BDA, who praised CDD as a “very good approach for empowering the communities because they have a chance to recommend what they want” in the design of development projects (SAIS group meeting, 17 January 2014).

CDD has become a popular form of aid in subnational conflict areas as it allows donors to directly channel funds to areas of conflict “where state structures are dysfunctional” and provides a level of transparency in how funds are used by including a variety of community stakeholders in the decision-making process (Parks, Colletta, and Oppenheim 2013, 121). While there is little evidence that CDD itself can directly lead to a reduction in violence, many studies have shown that CDD projects, if designed and implemented properly over a long period of time, can increase social cohesion and collective action and can even have a positive impact on transformational issues if the project is part of a broader strategy with state efforts to transform the conflict.

In Mindanao, CDD should be used as a way to strengthen local capacity and increase accountability when implementing development programs and delivering aid to the region. The GPH has emphasized the creation of strong civil society groups in Mindanao, many of which have large networks of volunteers adept at first response activities, and donor agencies should partner with these organizations to help strengthen local capacity in the CDD process (Klimesova 2013). However, stakeholders in the



development process should also recognize that aid can become a source of contestation for local actors, and donors should closely monitor this potential issue and know when to close operations in areas where CDD projects become contentious.

### Improved Regional Governance

While local capacity to implement development projects has traditionally suffered from issues of corruption and ineffectiveness, the current administration of the Autonomous Region of Muslim Mindanao (ARMM) has demonstrated a commitment to improving governance at both the regional and local level. Since taking power in July 2013, the current ARMM administration has focused on rewarding local government units (LGUs) that have fulfilled their duties, punishing low-performing LGUs by prosecution where necessary, and identifying pilot *barangays* to serve as models for good governance (SAIS group meeting, 18 January 2014). The regional government has saved a reported 1.2 billion pesos through such efforts as investigating school budgets and eliminating “ghost teachers” who did not exist but were on school payrolls and creating more stringent bidding processes for the Department of Public Works and Highways (DPWH).

When the new Bangsamoro territory is established, it will replace the current ARMM government, but the officials in power should continue to implement the steps taken toward improving governance in the region. A strong regional government that holds LGUs and *barangays* accountable will gain the confidence of both the national-level government and international aid donors and be more effective in implementing development projects. In support of this effort, the GPH and international organizations can also provide assistance in capacity building and governance capabilities to members of the MILF as many of them transition from rebels to public officials. The MILF has already established relationships with some aid donors, including UNICEF, and many observers note that the peace process between the GPH and the MILF is “far more internationalized” than the GPH-MNLF process (Klimesova 2013). As it transitions to a political entity, the MILF should leverage these relationships to strengthen its ability to govern in the Bangsamoro territory.

### Recognition of Horizontal Conflict

While international aid to Mindanao has mostly focused on general economic development and vertical conflict between the GPH and local rebel groups, there has been recognition on the part of the international donor community in recent years of horizontal conflict between local clans, locally termed *rido*. The Asia Foundation has been instrumental in researching *rido* conflict and working with aid donors to help identify areas that are most affected by such violence and solutions to reduce the level of *rido* violence (Parks, Colletta, and Oppenheim 2013, 123).

Going forward, international aid donors should continue to recognize *rido* as a main driver of conflict in the region and work to incorporate solutions to horizontal conflict in their development objectives. While the Asia Foundation has done significant research in this regard, international donor agencies can also work with NGOs and CSOs in Mindanao that often have a deep understanding of these localized conflicts to develop interventions that effectively target *rido*.

### **Conclusion**

While recent progress in the peace process between the GPH and MILF has greatly improved the outlook for development in conflict-affected areas of Mindanao, there is still a great amount of uncertainty surrounding the implementation of the peace agreement, the capacity of recently-developed local institutions, and the ability of local officials to govern effectively. Development plans in Mindanao also face issues of donor fragmentation, volatility in aid delivery, and delays in distribution of humanitarian aid during crises.

Nonetheless, the recent success of the peace process and the strong support the Aquino administration enjoys both domestically and abroad are legitimate reasons for donors to be optimistic about investment in the Philippines, particularly in Mindanao. As the peace process continues and the region prepares for a transition to a new Bangsamoro government, donors and other aid stakeholders should focus on developing strong institutions and good governance in Mindanao while scaling up economic development projects that have proven successful in the past. Engaging all local participants in the development process through community-driven development should be a priority,

particularly with the inclusion of civil society groups and local NGOs that have proven to be effective in the past. In order to effectively transform the conflict, however, donor agencies must also coordinate with the national government to ensure state services such as security and service delivery accompany development interventions.

## **Recommendations**

### For International Donors

- **Improve efforts to reduce fragmentation**, moving beyond information sharing amongst donors to **developing joint strategies**, preferably while strengthening existing local mechanisms such as the Mindanao Trust Fund and the Bangsamoro Development Agency.
- **Limit volatility in delivery of aid during times of natural disasters and humanitarian crises** and follow through with delivering aid that has already been pledged to specific projects.
- **Expand delivery of aid beyond local politicians**, particularly in areas where projects have been plagued by corruption or inefficiency in the past. **Work to fund projects from NGOs and CSOs that have proven to be effective** in delivering development assistance.
- **Further engage communities through community-driven development** to ensure inclusive participation amongst all stakeholders and to target areas of highest need in different communities, recognizing the significance of horizontal conflicts in the region such as *rido*. **Coordinate with national government to ensure that state-provided security, justice, and service delivery work alongside CDD in pursuing conflict transformation in Mindanao**. In areas where it appears that CDD becomes a source of contestation amongst local elites, donors should work with local partners to decide whether to continue the project or cease operations.

### For the National Government

- **Provide assistance to regional and local governments to ensure good governance** and minimize corruption in the aid delivery process, particularly during the transition to the new Bangsamoro government.

- **Help to streamline the development plans and aid delivery in Mindanao, by clearly delineating the roles of various government agencies** working to coordinate development in the region, such as the BDA, MinDA, NEDA, and regional and local governments, or by consolidating these responsibilities into one organization.
- **Reduce the amount of public solicitation for international aid to the region and work with donors and local stakeholders** if aid to Mindanao begins to fuel local conflicts.

#### For Regional and Local Governments

- **Continue the recent efforts of the ARMM government to cut wasteful spending and improve governance**, preferably by integrating many of the current effective officials into the new government to strengthen donor confidence in local capacity.
- **Strengthen existing relationships with the national government and international donor agencies** to improve local capacity to deliver and oversee development projects, particularly through the Bangsamoro Development Agency. **Place only well-qualified and motivated people in positions of power** in organizations like the BDA that coordinate development programs in the region.

#### For NGOs and Civil Society

- **Recognize that some volatility in aid delivery is inevitable**, particularly in the aftermath of natural disasters, and **create contingency plans** and allot portions of budgets to account for possible delays in the administration of donor funds.
- **Continue to develop strong networks across conflict-affected areas** of Mindanao as a way to build confidence of donor agencies in the capacity of NGOs and CSOs to implement development interventions.

## **Conclusion**

### **P. Terrence Hopmann**

On 27 March 2014, the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) signed an historic Comprehensive Peace Agreement (CPA), creating an autonomous region called the “Bangsamoro” on the island of Mindanao and adjoining smaller islands of the Sulu Archipelago. Following literally centuries of conflicts between Spanish, followed by American colonizers of the Philippines and the residents on the southernmost islands of the Philippines, and after attempts to integrate the inhabitants into a common Philippine identity, followed by a series of largely failed peace agreements extending over some forty years, the CPA represents the greatest potential to bring peace finally to this troubled region.

When this author and a different group of 19 SAIS students travelled to this region in January 2011, the region was only beginning to recover from the rejection by the Philippines Supreme Court of an agreement between the government of President Gloria Macapagal Arroyo and the MILF on the Memorandum of Understanding – Ancestral Domains (MOA-AD) and the large-scale violence and displacement of inhabitants of the region that ensued. President Benigno Aquino III had just taken office in 2010, and preparations for a new round of negotiations with the MILF were being set up with Malaysian facilitation, and Marvic Leonen of the GPH and Mohagher Iqbal of the MILF were about to commence a negotiation process that lasted three years. Finally, in March 2014, shortly after the return from the Philippines of the current group of SAIS students, the final peace agreement has been achieved. We were fortunate to be able to meet with key stakeholders, negotiators, political leaders, and civil society organizations during our time in Manila and Cotabato City in January 2014 as the final stage of negotiations was getting under way on the 4<sup>th</sup> and final annex to the Framework Agreement on the Bangsamoro signed in October 2012.

With the successful conclusion of these negotiations, this report considers several basic issues: 1) What were the factors that fueled this conflict in the first place, and how well has the CPA responded to those drivers of conflict? 2) What is the likelihood that this agreement will succeed in bringing a stable peace to this region when so many past

agreements over the past 40 years have failed to do that? 3) What are the major challenges for the implementation of the CPA, and how can all of the engaged parties – the GPH, the MILF, the Malaysian facilitators, the International Contact Group (ICG), the International Monitoring Team (IMT) and its network of civil society organizations that make up the Civilian Protection Component (CPC), the local authorities in the Bangsamoro Transition Commission (BTC) and their external monitors in the Third Party Monitoring Team (TPMT), as well as citizens of Mindanao – meet these challenges over the next two years prior to the 2016 national elections and beyond that into the long-term future?

We begin by looking at the drivers of the conflict. As Yasmin Anis argues, this is first and foremost a conflict of identity. A significant portion of the populations of the islands of Southeast Asia had been converted to Islam prior to the arrival of the European colonial powers. Unlike the British in Malaysia or the Dutch in Indonesia, which remain majority Muslim countries to this day, the Spanish set out to convert the Philippines' populations to Christianity, primarily Roman Catholicism. They were largely successful everywhere except in the southern islands of Mindanao and neighboring smaller islands that had been part of the Sultanate of Sulu, who struggled for centuries to preserve Islam as the dominant religion. In addition, indigenous peoples collectively called Lumads generally lived in the mountainous and forested central regions of the island and remained remote from foreign influences into contemporary times and thus did not adopt any of the religions imported from abroad. As Anis argues, these two separate constructed identities, Christian Filipino and Moro, are largely at the root of the conflict. Moros, originally a derisory term applied by Spanish colonizers to all Muslims, eventually was taken as a symbol of pride about the basic identity of all those who resisted the penetration of Spanish, and later American rule, culture, and religion in their region. This distinctive identity is contained in the name of the new entity in the CPA, the Bangsamoro, literally meaning "Moro Nation."

However, as Léonie Evers contends, even the term Bangsamoro remains contested among residents of this region. Even among the Moros, differences abound between the Moro National Liberation Front (MNLF), which signed the peace agreements of 1976 and 1996 and ruled for a time thereafter in the Autonomous Region

of Muslim Mindanao (ARMM), and the MILF. Although mostly Muslim, the MNLF defined their struggle primarily in terms of national liberation, whereas the MILF, the primary Moro party in the CPA, defines itself more explicitly in religious terms, having replaced “National” with “Islamic” in the title of their organization. Even among the explicitly Islamic groups, tensions remain between the more moderate leadership of the MILF, represented by Chairman Al Haj Murad Ibrahim and his colleagues, and more radical Islamists who desire to create a truly Islamic state in the region. Although the latter groups are currently relatively weak, as Evers points out, fear that more radical elements may eventually gain strength in the Bangsamoro is a major concern among many, especially Christians, in the northern Philippines.

Of course identity is seldom a driver of conflict alone, but it becomes a powerful driver when it is reinforced by other cleavages. In the case of the Mindanao conflict there is a widespread perception of a long history of marginalization at the hands of the colonial powers and subsequently of the majority Christian government in Manila. Most Moros perceive themselves as a disadvantaged minority in an overwhelmingly Christian and Filipino nation, a marginalization that became particularly acute during the regime of the Philippine dictator Ferdinand Marcos, when the conflict first became violent. They largely lack influence in the politics of the Philippines which, ever since democracy was restored, remains heavily dominated by a powerful majority making decisions largely without taking into account the interests and needs of persons belonging to minorities. As Cormac Sullivan shows, this is further reinforced by the great economic disparity between the provinces of Mindanao and the rest of the country, as all but one of the provinces of the current ARMM fall into the bottom ten regions of the Philippines on the Human Development Index. Furthermore, as René Wynveen emphasizes, over centuries they have been subject to cyclical displacement due to natural disasters, warfare, and disputes over access to land and the natural resources found in those lands. Thus the mutual reinforcement of identity and political-economic disparity provide the primary drivers of the conflict in Mindanao.

The negotiation process on the CPA, which opened in 2011 under Malaysian facilitation, has proven to be a highly successful example of effective negotiations aimed at ending such a protracted conflict. Malaysia gained entry as facilitator largely because

of its predominantly Muslim character, which gave the MILF confidence in its mediation, and because of its membership in ASEAN, with its strong support for the territorial integrity of states and non-interference in their internal affairs, which gave the GPH confidence that it would not support the original MILF drive for complete independence. As Munkyoung Park indicates, the GPH initially wanted to change facilitators because of the widespread perception in Manila that the Malaysian mediator had favored the MILF in the negotiation of the failed MOA-AD. In the end, Malaysia remained the facilitating nation, but they appointed a new mediator, Tengku Dato Ab Ghafar Tengku Mohamed. As Park argues, he was able to re-establish trust due largely to his more passive, confidence-building style of facilitation in contrast to his predecessor's more directive style. The result was a process of relatively quiet diplomacy that nonetheless succeeded in overcoming many of the differences between the parties.

The facilitator was assisted in this process by a uniquely composed International Contact Group (ICG), consisting of four states and four international NGOs. The ICG was considered to be valuable by the MILF, as Helga Kalm suggests, largely because it was seen as a potential guarantor of any eventual agreement. Because, as non-governmental actors, the NGO members of the ICG had greater freedom to interact with the MILF than state parties, they were often quite successful in assuring full representation of Moro views in the process. On the other hand, as Kalm argues, the state parties were sometimes perceived as favoring the GPH, especially since at least one of the Islamic states, Saudi Arabia, remained largely inactive, and this may have contributed to some provisions appearing in the CPA that largely disregarded MILF desires to allow for a longer transition period for the establishment of the Bangsamoro. At the same time, the ICG often played an instrumental role in keeping the negotiations on track when external events, especially actions by "spoilers," threatened to derail the process.

A major challenge to the negotiators, however, remained how to meet the needs of the two parties, especially the MILF, without risking another constitutional reversal by the Philippines Supreme Court, as had occurred in 2008 after the negotiation of the MOA-AD. As Felix Neugebauer indicates in his chapter, the MOA-AD was rejected largely for two reasons: First, in terms of process, the Court found that the negotiations had not been sufficiently transparent, especially by keeping members of Congress



informed of its decisions. Second, substantively, the Court emphasized the concern that the “associative relationship” proposed between the Bangsamoro Juridical Entity (BJE) that was to be created and the central Philippines government came excessively close to allowing for eventual independence of the BJE from the Philippines. Therefore, in the negotiations leading up to the CPA, the GPH Peace Panel regularly consulted with key political leaders, especially in the Congress, and sought to build on President Aquino’s great popularity throughout the country. In addition, the GPH rejected the MILF proposal to seek a state - sub-state relationship that might face a constitutional challenge again, insisting on emphasizing the territorial integrity of the Philippines state and the asymmetric relationship between the GPH and the Bangsamoro; they also declined to describe the new entity as anything except simply “the Bangsamoro” in order to avoid the use of any term that might suggest the possibility of eventual independence for the region.

In addition, as Akhila Raman argues in her chapter, the Mindanao peace process was also facilitated by the role of women in the process, especially by the GPH’s instituting a National Action Plan on Women, Peace, and Security in response to UN Resolution 1325. A woman heads both the GPH’s Office of the Presidential Adviser for the Peace Process (OPAPP), Teresita Quintos-Deles, and the Government Peace Panel, Professor Miriam Coronel-Ferrer, both of whom came from the NGO community actively engaged in peace work, especially at the Gaston Ortigas Peace Institute based at the Ateneo de Manila University; other women active in this NGO community will serve on the Third Party Monitoring Team. In spite of cultural and religious constraints in the Moro community that make it difficult for women to assume leadership positions, women have been actively engaged in advising and supporting the peace process for the MILF as well. Four of the fifteen members of the Bangsamoro Transition Commission are women. In short, the Philippines has in many ways become a model for the implementation of UN Resolution 1325. At the same time, as Raman contends, the challenge is not only to engage women in the peace process, including its negotiation and implementation, but to include women’s perspectives actively in the peace-building process that will unfold in the years ahead.

Therefore, the combined efforts of the facilitator and the ICG, along with a real commitment to achieve a timely agreement by the leadership of GPH and the MILF, produced a Framework Peace Agreement on 15 October 2012, followed by four annexes and one addendum negotiated over the subsequent 15 months, all combined to constitute the Comprehensive Peace Agreement signed on 27 March 2014. Altogether this process was a remarkably smooth one and the result appears to offer real hope for peace in the southern Philippines. The challenge ahead, however, remains primarily in its effective and full implementation. As Joseph Geni argues in his chapter, the biggest problem with all previous agreements has not been the inherent weakness of the agreements as much as the failure to implement fully and fairly the terms of the agreements. The key in the case of the CPA is timing: The GPH pushed for and obtained a short transition period, largely to try to have the biggest hurdles for implementation completed before the presidential elections of 2016, when another government might come to power less committed, or, even worse, opposed to the CPA. They were anxious to avoid the violence that erupted following the 1996 “Final Peace Agreement,” when President Fidel Ramos was replaced by Joseph Estrada, whose policy of “all out war” against the Moros completely undermined the peace process. The MILF leadership recognizes this imperative, but it is also uneasy about the extreme difficulty of implementing a political process, drafting the Bangsamoro Basic Law, and electing a government for the Bangsamoro by 2016, an extremely short time period to complete such a huge transition. There is a real concern, as Geni points out, that the “traditional politicians,” generally local clan leaders and warlords who command significant private armies, financial resources, and close contacts with the Manila elite, might hijack the political process before the MILF and its allies have time to make the transition from a rebel army into a cohesive and effective political actor.

Benjamin Merrill analyzes in his chapter the requirements for the MILF to convert from an effective rebel group into a normal and broad-based political actor in a short period of time, so that its representatives will be able to win sufficient seats to participate fully in the first elected Bangsamoro government. Merrill emphasizes that this will require the MILF to demilitarize, to develop a strong political party organization, and to democratize and broaden its own internal decision-making. In order to be

successful politically, they must appeal to a wider group of voters beyond those who participated directly in the MILF's struggle. If they come up short, he concurs with Geni's view about the risk that the traditional politicians in Mindanao might seize control of the Bangsamoro government and undermine the fundamental goals for which the MILF has fought so hard over many decades.

This transition process, therefore, faces numerous challenges over the next two years, as well as over the long-run. The first major challenge is for the Bangsamoro Transition Commission to draft the Bangsamoro Basic Law, which will govern the new entity. This will require the commission members to translate all of the terms of the Comprehensive Peace Agreement into a legal document that needs to be approved by the Philippines Congress. As Michelle Thompson writes, controversial issues that must be resolved to the approval of all key stakeholders, including non-Muslims living in the Bangsamoro, the role of shari'a law, and the timing of the transition. The fifteen members of the BTC represent different factions of the Bangsamoro, including four women and two representing the indigenous peoples, but in the end it must draft a law that can pass muster with all factions within the Philippines as a whole.

Another major challenge that has been kept under control throughout the negotiation process, but has not disappeared with the signing of the Comprehensive Peace Agreement, comes from potential "spoilers" who seek to undermine the peace process for many different reasons. Perhaps the most significant spoiler on the horizon is the MNLF, which negotiated peace agreements in 1976 and 1996 with the GPH, but has been largely marginalized in the negotiations of the past three years. The MNLF fell out of favor with many Moros due to its failure to insist on full implementation of those previous agreements and disillusionment with its ineffectiveness in administering the ARMM, as Constance Wilhelm notes. The essential task for the Bangsamoro will be to try to persuade most leaders of MNLF factions that they will be better off joining the Bangsamoro rather than undermining it. However, the faction led by the MNLF leader who served as its chief negotiator of the 1996 Comprehensive Peace Agreement with the GPH, Nur Misuari, will be very hard to persuade to support an agreement based on what has been, in their view, an illegitimate negotiation that disregards an agreement that they still believe to be in force. Ironically, the MILF originally broke with the MNLF due to

its failure to achieve full independence for the Moros, but now the positions have reversed as many in the MNLF resent the absence of any path to independence in the CPA. Even though Misuari is considered by many to be passé, he still commands a certain emotional following among Moros that could make him a threat to the peace process if he decides to oppose it actively. The attack by MNLF fighters loyal to Misuari in Zamboanga City in September 2013 does not bode well for his acquiescence in the new peace agreement.

The MNLF, however, does not constitute the only potential spoiler during the implementation phase, as Panagiotis Olympiou stresses in his chapter. First, there are other more radical Islamic armed groups, whom Olympiou considers to be total spoilers. On Mindanao the most important such group is the Bangsamoro Islamic Freedom Fighters (BIFF), a break-off unit of the MILF, which continues its efforts to achieve independence for Mindanao and is committed to the continuation of armed conflict until that goal is realized. On the Sulu Archipelago more radical groups operate, especially Abu Sayyaf and Jemaah Islamiyah; although all such groups are currently small, if the peace process falls well short of expectations, popular support could shift from the MILF to these more radical groups, as it did many years ago from the MNLF to the MILF. Second, there is potential opposition from greedy spoilers, especially the traditional politicians and clan warlords, who are threatened with possible loss of wealth and political power by the CPA; they too can benefit from slow progress and a disappointing implementation of the CPA. Finally, there are potential limited spoilers, including non-Muslims in Mindanao and their allies elsewhere in the Philippines, especially Christians, who may become minorities in communities where they had previously commanded majorities, and indigenous peoples who have long been excluded from political and economic influence. If the Bangsamoro fails to make serious efforts to bring them into the new political order, they too will be a disillusioned group who may oppose the full implementation of the CPA.

Another key requirement for a smooth transition will be the ability of the Bangsamoro to provide security for its citizens. Annex 4 of the CPA on “Normalization” calls for demobilization, disarmament, and reintegration (DDR) of the Bangsamoro Islamic Armed Forces (BIAF), complemented by the withdrawal of major elements of the

Armed Forces of the Philippines (AFP) except for those required for defense against foreign threats. As Ayeda Wondimu emphasizes in her chapter, this was a particularly challenging part of the implementation of the 1996 Final Peace Agreement and is likely to be difficult again. The MILF fears excessively rapid disarmament while potential rivals, including many of the spoilers mentioned above, remain well armed. These include the BIFF, MNLF units, private armies in the service of local warlords, as well as officially sanctioned but not well regulated Civilian Armed Forces Units (CAFUs) throughout the region. The GPH has committed to disarming these elements as well, but all of these groups will likely resist giving up their arms, which remains a matter of concern for BIAF officers who are expected to cooperate in DDR. Additional challenges remain verifying disarmament and reintegrating former BIAF fighters into the AFP or the new Bangsamoro Police.

With the BIAF potentially disarmed and the AFP largely withdrawing from Mindanao, a new Bangsamoro Police Force will be essential to fill in the gap to provide security for the population in this region, as the failure to provide a basic need like security will inevitably lead to the failure of the Bangsamoro. As Oliver Russell writes in his chapter, during the transition many of the structures that provided security during the negotiation process will need to remain actively engaged at least over the next several years. These include especially the International Monitoring Team (IMT) led by Malaysia and its committees, in which BIAF and AFP officers confer regularly and immediately in case of a crisis to try to prevent minor incidents from escalating into major clashes, namely the Coordinating Committee on the Cessation of Hostilities (CCCH) and the Ad Hoc Joint Action Committee (AHJAC). This mechanism essentially reduced the number of skirmishes between opposing forces from a high of 218 in 2008 down to zero by 2012. But these mechanisms will be gradually phased out as the IMT draws down and eventually withdraws, as the MILF decommissions and disarms, and as the AFP largely withdraws from Mindanao. Therefore, Russell emphasizes the importance of creating a new and effective Bangsamoro police force, accountable to the regional government, respectful of the human rights of all citizens of the Bangsamoro, and including significant representation of Moros and other persons belonging to minorities in the region.

A final challenge looms in the economic realm; Mindanao is by all measures the poorest region of the Philippines, but expectations of an amelioration of this situation run high throughout the region in the wake of the conclusion of the CPA. Therefore, a failure to bring at least some shared economic growth throughout the region will leave citizens disappointed in the process and therefore prone to return to the armed struggle. As Cormac Sullivan writes, this will require a strengthening of the Bangsamoro Development Agency (BDA), especially its intellectual capacity, and its focus on development planning. Furthermore, a key element of that plan must be an effort to offer gainful employment to decommissioned rebel soldiers so they do not return to their arms, as well as an overall diversification of the regional economy beyond its current overdependence on agricultural production and fishing. As René Wynveen suggests, it also requires careful management of land disputes among various claimants, especially to the ancestral domains, so that these do not contribute to renewed conflict.

Finally, Ryan Whalen points to the need for outsiders to become even more committed to economic assistance after the end of the violence. The GPH is itself prepared to commit significant funding to the economic development process, but this must be sustained until tangible results are apparent; it is especially necessary to focus on the equality of aid distribution to those most in need and not to traditional political and economic elites in the region. All donors must take careful steps to assure that their aid is not diverted by corruption, which runs rampant throughout the region. Aid must thus emphasize capacity-building among the local agencies, especially the BDA, so that there is effective implementation of aid programs that are also sensitive to local needs and customs. Finally, Whalen places special emphasis on reducing fragmentation among aid agencies, so that the efforts of the GPH, bilateral aid donors such as the US, Japan, and Australia, and international institutions such as the World Bank, UNDP, and IMF are not working at cross purposes as has been the case too often in the past. The Bangsamoro needs a comprehensive and coordinated development program, originating from local management, and with a unified approach by all outside donors to avoid duplication of effort and to assure that all programs complement rather than compete with one another.

In summary, the March 2014 Comprehensive Peace Agreement on the Bangsamoro offers the best opportunity in recent history for constructing a durable peace

in Mindanao. Constructive negotiations by both the GPH and MILF leadership, complemented by the skillful facilitation of the Government of Malaysia and supported by the International Contact Group, have created a comprehensive and workable plan to bring stable peace and good governance to the region. The IMT along with its various components, especially the Civilian Protection Component, have created the conditions over the past three years for the negotiations to proceed towards agreement in spite of many efforts to disrupt them. However, the negotiations are not finished, in the sense that all agreements require a continuing process of negotiation throughout their implementation. In this regard, the CPA faces many challenges including the rapid pace with which the MILF must convert from a rebel organization to a political party; potential challenges to the constitutionality of the agreement; drafting a Bangsamoro Basic Law that not only fulfills the aspirations of the Bangsamoro people but also can pass muster with the Philippines Congress and, if challenged, the Supreme Court; fending off the efforts of many different kinds of spoilers to disrupt or undermine the peace process; producing an effective government that can provide security and economic betterment for its people; disarming all armed factions within the region and assuring that all remaining instruments of armed violence are subject to the rule of law. In achieving these goals, the enhanced support of the international community, which has until now not focused extensively on the Mindanao region, is essential. In the end, however, what provides our group of students and professors with the greatest source of both hope and inspiration is the commitment to a peaceful future by both the current Government of the Philippines and the Bangsamoro people, who have suffered greatly for a very long time and deserve a better future. To that goal, all parties should commit their fullest effort in the months and years ahead.





## **List of Interviews**

### **Washington DC, Briefings**

- **P. Terrence Hopmann**, SAIS Conflict Management Program (SAIS, 9 October 2013)
- **David Arulanantham** and **Kathy Kerr**, Philippines Desk, US Dept of State (SAIS, 4 December 2013)
- **David Timberman**, Management Systems International (SAIS, 12 December 2013)
- **Steven Rood**, Asia Foundation (SAIS, 12 March 2014)

### **Itinerary**

#### **Conflict Management Field Trip to the Philippines:**

**15-22 January 2014**

#### **Manila**

**15-16 January**

- Introductory Briefing by **Steven Rood**, Director, Asia Foundation – Philippines (15 January)
- Briefing at the Centre for Humanitarian Dialogue, NGO member of the International Contact Group, with **Ali Saleem**, Director, **Vandrazel Birowa**, Project officer-Sulu, and **Mary Louise Castillo**, Consultant (16 January)
- **Rommel Banlaoi**, Director, Philippine Institute for Peace, Violence, and Terrorism Research (16 January)
- **Amina Rasul**, Philippine Council for Islam and Democracy (16 January)

## **Cotabato City**

**17-20 January**

### **Friday 17 January**

- Bangsamoro Study Group (BSG) - working lunch and arrival briefing by Atty. **Zainudin Malang**, Director of Mindanao Human Rights Action Center (MinHRAC) and BSG
- Dialogue with **Col. Dickson Hermoso**, Inspector General and Spokesperson for the 6<sup>th</sup> Infantry Division, Armed Forces of the Philippines and former AFP representative on the Coordinating Committee on the Cessation of Hostilities (CCCH)
- Working dinner at Bangsamoro Study Group offices (group processing of meetings, daily debriefing, and briefing for the next day's sessions by Atty. Zainudin Malang)

### **Saturday 18 January**

- Meeting with the Bangsamoro Transition Commission (BTC), **Mohagher M. Iqbal**, Chairman, , BTC Headquarters, Cotabato City
- Dialogue with **Al Haj Murad Ibrahim**, Chairman of the Central Committee of the Moro Islamic Liberation Front (MILF) - Camp Darapanan, Maguindanao
- Working Lunch (briefing by Atty. **Naguib Sinarimbo**), Bangsamoro Study Group office
- Dialogue with senior officials of the Autonomous Region of Muslim Mindanao (ARMM), ARMM Headquarters, Cotabato City:
  - **Laisa Alamia**, Executive Secretary
  - **Anwar Malang**, Regional Secretary, Department of the Interior and Local Government
  - **Ishak Mastura**, Chairman, Regional Board of Investments
- Dialogue with **Cardinal Orlando Quevedo**, O.M.I., Archbishop of Cotabato City, Archbishop's residence

- Working Dinner at Bangsamoro Study Group office (dialogue with Atty. **Michael Mastura**, Senior Advisor to the MILF and former member of the MILF Peace Panel; daily debriefing and briefing for following day's itinerary by Atty. Zainudin Malang)

### **Sunday 19 January**

- Dialogue with the General Staff of the Bangsamoro Islamic Armed Forces (BIAF) of the MILF and Tour of the BIAF Base Camp, Camp Darapanan, Maguindanao
- Briefing by the International Monitoring Team (IMT), IMT Headquarters, Cotabato City
  - **Major Gen Dato' Fadzil Bin Mokhtar**, Head of Mission
  - **Espen A. Steffensen**, Civilian Observer, Security Component
  - **Takayuki Nakagawa**, First Secretary, Sr. Advisor for Reconstruction and Development in Mindanao
- Working Lunch (Briefing by MinHRAC team on their role in Civilian Protection during the September 2013 crisis in Zamboanga City)
- Dialogue with heads of Civil Society Organizations/NGOs, Cotabato City State Polytechnic University.
- Dialogue with students of graduate programs on peace studies from all universities in Cotabato City, Cotabato City State Polytechnic University.
- Social dinner with MinHRAC staff at Pagana Restaurant, Cotabato City

### **Monday 20 January**

- Final Briefing by Atty. **Zainudin Malang**, Director of MinHRAC

## **Manila**

### **21-22 January**

#### **Tuesday 21 January**

- Meeting with Professor **Miriam Coronel-Ferrer**, Chief of the GPH Negotiating Panel, Office of the Presidential Adviser on the Peace Process (OPAPP)
- Discussion on “Civil Society Peace Efforts on Mindanao” at the Gaston Z. Ortigas Peace Institute, hosted by **Karen Tañada**, at the Ateneo de Manila University; Presentations by:
  - **Rep. Djalia Turabin-Hataman** (Basilan) – Anak Mindanao
  - **Pauleen Gorospe** - Ateneo School of Government
  - **Marites Guingona-Africa** – Peacemakers Circle
  - **Jasmin Nario-Galace** – Women Engaged in Action 1325
  - **Abaliza Ugay** – Mindanao Solidarity Network and Balay Rehabilitation Center
  - **Karen Tañada** – Mindanao Peaceweavers
  - **Ed Garcia** – International Alert (ret.)
- Reception and dinner hosted by the Office of the Presidential Adviser on the Peace Process, with **Rose Romero**, Assistant Secretary for Public Affairs and Chief of Staff, Restaurant Kanto, Podium Center, Manila

#### **Wednesday 22 January**

- Meeting with Atty. **Johaira Wahab**, Head of the GPH negotiation legal team during the negotiations of the Framework Agreement and member of the Bangsamoro Transition Commission
- Meeting with **Bong Montesa**, OPAPP in 2002-2010 during the administration of Gloria Macapagal Arroyo and advisor to the Asia Foundation

## Bibliography

- Abinales, Patricio N. and Donna J. Amoroso. 2005. *State and Society in the Philippines*. Oxford: Rowman & Littlefield.
- Abinales, Patricio N. 2010. *Orthodoxy and History in the Muslim-Mindanao Narrative*. Manila: Ateneo University Press.
- Arguillas, Carolyn O. 17 May 2010. "Ampatuan Patriarch Loses Out, but Massacre Suspects and their Wives Win Top Posts." *MindaNews*. Accessed 4 February 2014. <http://www.dailymirror.ph/May-2010/May1710/front2.html>
- Armed Forces of the Philippines. 2010. "Internal Peace and Security Plan."
- "ARMM Execs Seek Control of Natural Resources." 4 March 2010. *Inquirer Mindanao*. Accessed 4 March 2014. <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100304-256636/ARMM-execs-seek-control-of-natural-resources?ModPagespeed=noscript>
- Bangsamoro Development Agency. 10 March 2014. "Building People who will Build the Nation." <http://bangsamorodevelopment.org/mindanao-philippines-building-people-who-will-build-the-nation/>
- Bangsamoro Development Agency. <http://bangsamorodevelopment.org>. Accessed 10 February 2014.
- "Bangsamoro transition panel members booed at Zamboanga forum." 13 February 2014 *Philippine Daily Enquirer*. Accessed 13 February 2014 <http://newsinfo.inquirer.net/577778/bangsamoro-transition-panel-members-booed-at-zamboanga-forum#ixzz2tgvCUG5H>
- Bangsamoro Islamic Armed Forces. 2006. *General Order No.2, amending articles 34 and 36 of the code of conduct of the Bangsamoro Islamic Armed Forces*.
- Bercovitch, Jacob. 2007. "Mediation Success or Failure: A Search for the Elusive Criteria." *Cardozo Journal of Conflict Resolution* Vol. 7, No. 2. Accessed 8 February 2014. <http://cardozojcr.com/vol7no2/CAC206.pdf>
- Bercovitch, Jacob. 1997. "Mediation in International Conflict: An Overview of Theory, A Review of Practice." In I. William Zartman and J. Lewis Rasmussen, eds. *Peacemaking in International Conflict: Methods and Techniques*. Washington, DC: United States Institute of Peace Press.
- Caculitan, R. Ariel. December 2005. "Negotiating Peace with the Moro Islamic Liberation Front in the Southern Philippines." Master's Thesis. Naval Post Graduate School. Accessed 11 February 2014.

- <http://www.nps.edu/Academics/Centers/CCC/Research/StudentTheses/caculitan05.pdf>
- Cagoco-Guiam, Rufa. 2013. "Gender and Livelihoods among Internally Displaced Persons in Mindanao, Philippines." In *The Brookings-London School of Economics Project on Internal Displacement*.
- Candelaria, Sedfrey M. 2013. "Comparative Analysis of the Memorandum of Agreement on the Ancestral Domain aspect of the GRP-MILF Tripoli Agreement on Peace of 2001 and Framework Agreement on the Bangsamoro." A paper delivered on the occasion of the Chief Justice Artemio V. Panganiban Professorial Chair on Liberty and Prosperity 2nd Lecture Series.
- Canuday, Jose Jowel. 2007. "Big War, Small Wars: The Interplay of Large-scale and Community Armed Conflicts in Five Central Mindanao Communities." In Wilfredo Magno Torres III, ed. *Rido: Clan Feuding and Conflict Management in Mindanao*. Makati City: The Asia Foundation.
- Collier, Paul. 2007. "Economic Causes of Civil Conflict and Their Implications For Policy." In Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. *Leashing The Dogs of War: Conflict Management in a Divided World*. Washington, DC: United States Institute of Peace Press.
- Constitution of the Republic of the Philippines (1987).*
- Cousens, Elizabeth. 2008. "It ain't over 'til it's over: what role for mediation in post-agreement contexts?" *Oslo Forum Network*. Oslo Forum 2008. HD Centre. Accessed 15 February 2014.  
[http://www.hdcentre.org/uploads/tx\\_news/29ElizabethCousensPostAgreementWEB.pdf](http://www.hdcentre.org/uploads/tx_news/29ElizabethCousensPostAgreementWEB.pdf)
- Cramer, Christopher. 2011. "Unemployment and Participation in Violence." *World Development Report Background Paper*. Washington, DC: The World Bank.
- Dañguilan Vitug, Marites and Glenda M. Gloria. 2000. *Under the Crescent Moon: Rebellion in Mindanao*. Manila: Ateneo Center for Social Policy & Public Affairs.  
[http://www.peacewomen.org/assets/file/Resources/Government/building\\_peace\\_in\\_2013.pdf](http://www.peacewomen.org/assets/file/Resources/Government/building_peace_in_2013.pdf)
- Dwyer, Leslie and Rufa Cagoco-Guiam. August 2010. "Gender and Conflict in Mindanao." The Asia Foundation.
- Fernandez, Edwin. 30 December 2008. "MILF sets terms for resumption of talks." *Inquirer*. Accessed 10 February 2014.

- <http://newsinfo.inquirer.net/breakingnews/nation/view/20081230-180653/MILF-sets-terms-for-resumption-of-talks>
- Fisher, Ronald J. 1997. *Interactive Conflict Resolution*. Syracuse, NY: Syracuse University Press.
- Fitrah, Isyrina Donna. 2012. "Multiparty Mediation in the Southern Philippines Conflict." Master's Thesis. Leiden University. Accessed 7 February 2014. [https://openaccess.leidenuniv.nl/bitstream/handle/1887/19390/Fitrah\\_Thesis%20Final%20Draft.pdf?sequence=1](https://openaccess.leidenuniv.nl/bitstream/handle/1887/19390/Fitrah_Thesis%20Final%20Draft.pdf?sequence=1)
- Framework Agreement of the Bangsamoro (2012).*
- "Global Insider: Southern Philippines Stands to See Peace Dividend." 2 January 2014. *World Politics Review*. [www.worldpoliticsreview.com/trend-lines/13469/global-insider-southern-philippines-stands-to-see-peace-dividend](http://www.worldpoliticsreview.com/trend-lines/13469/global-insider-southern-philippines-stands-to-see-peace-dividend)
- "Gov't eyes to pass Bangsamoro Basic Law before year-end: official." 8 February 2014. *The Philippine Star*. Accessed 10 February 2014. <http://www.philstar.com/headlines/2014/02/08/1288247/govt-eyes-pass-bangsamoro-basic-law-year-end-official>
- "Govt ready to resume peace talks with MILF." 14 January 2009. *Inquirer Mindanao*. Accessed 8 February 2014. <http://www.gmanetwork.com/news/story/144206/news/nation/govt-ready-to-resume-peace-talks-with-milf>
- Greene, Owen and Ariel Penetrante. 2011. "Arms, Private Militias and Fragile State Dynamics." In Owen Greene and Nic Marsh, eds. *Small Arms, Crime and Conflict. Global Governance and the Threat of Armed Violence*. New York, NY: Routledge.
- Hann, Brigitte, Anne Saxon, and Christian Scheper. May 2013. *Human Rights Impact Assessment of the Tampakan Copper-Cold Project, Mindanao, Philippines*. Institute for Development and Peace (INEF), commissioned by MISEREOR (German Catholic Bishops' Organization for Development Cooperation) and Fastenopfer (Swiss Catholic Lenten Fund), in collaboration with Bread for All.
- Herbolzheimer, Kristian and Emma Leslie. July 2013. "Innovation in mediation support: The International Contact Group in Mindanao." *Conciliation Resources*. Accessed 12 February 2014.
- Hofmann, Claudia. 2011. "Peace Negotiations in the Philippines: The Government, the MILF and International NGOs." *PeaceBrief 91*. United States Institute of Peace. Accessed 16 February 2014. <http://www.usip.org/sites/default/files/PB%2091.pdf>

- Hopmann, P. Terrence. 2013. "Conflict Management in Mindanao: Negotiating the Framework Agreement on the Bangsamoro." Washington, DC: School of Advanced International Studies – JHU, 2013.
- Hopmann, P. Terrence and I. William Zartman, eds. 2011. *Mindanao: Understanding Conflict 2011. Conflict Management Program Student Field Trip to Mindanao*. Washington, DC: School of Advanced International Studies – JHU.
- Hopmann, P. Terrence. 2001. "Bargaining and Problem Solving: Two Perspectives on International Negotiation." In Chester Crocker, Fen Osler Hampson, and Pamela Aall, eds. *Turbulent Peace: The Challenges of Managing International Conflict*. Washington, DC: United States Institute of Peace Press.
- Hui, Peng. December 2012. "The Moro Problem in the Philippines: Three Perspectives." The Southeast Asia Research Centre (SEARC). *Working Paper Series No. 132*. Accessed 9 February 2014.  
[http://www.academia.edu/3183601/The\\_Moro\\_Problem\\_in\\_the\\_Philippines\\_Three\\_Perspectives](http://www.academia.edu/3183601/The_Moro_Problem_in_the_Philippines_Three_Perspectives)
- "IMT: Peace deal is safe." 20 October 2012. *The Star Online*. Accessed 10 February 2014. <http://www.thestar.com.my/News/Nation/2012/10/20/IMT-Peace-deal-is-safe.aspx/>
- "International Contact Group on Mindanao." *Conciliation Resources*. Accessed 15 February 2014. <http://www.c-r.org/featured-work/international-contact-group-mindanao>
- International Crisis Group. 5 December 2012. "The Philippines: Breakthrough in Mindanao." *Asia Report No. 240*.
- International Crisis Group. 14 May 2008. "The Philippines: Counter-insurgency vs. Counter-terrorism in Mindanao." *Crisis Group Asia Report N°152*. Accessed 7 February 2014. [http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/152\\_counterinsurgency\\_vs\\_counter\\_terrorism\\_in\\_mindanao.pdf](http://www.crisisgroup.org/~media/Files/asia/south-east-asia/philippines/152_counterinsurgency_vs_counter_terrorism_in_mindanao.pdf)
- Karim, Naz Farrah. 21 October 2012. "SUNDAY INTERVIEW: Quiet Envoy Helps Seal Peace Deal," *New Straits Times*. <http://www.nst.com.my/nation/general/sunday-interview-quiet-envoy-helps-seal-peace-deal-1.159887>
- Kelley, Tessa. March 2013. "Legal and regulatory issues: Typhoon Bopha." <http://www.ShelterCluster.org>
- Kharas, Homi. 2007. "The New Reality of Aid." *The Brookings Institution*. Accessed 27 March 2014.



- Kinjiyo, Gandhi. 12 September 2013. "Consultation on Concerns of Moro Women on the Shariah Justice System in the Bangsamoro Held." MILF Central Committee on Information Official Website. Accessed 10 February 2014.  
<http://www.luwaran.com/index.php/welcome/item/549-consultation-on-concerns-of-moro-women-on-the-shariah-justice-system-in-the-bangsamoro-held>
- Kleiboer, Marieke. 1996. "Understanding Success and Failure of International Mediation." *Journal of Conflict Resolution*. Vol. 40. Issue 2.
- Klimesova, Martina. 27 September 2013. "Local Capacity Building and the Current Crisis in Mindanao." *Institute for Security and Development Policy*.
- KPMG Global Energy Institute. *The Energy Report Philippines Growth and Opportunities in the Philippines Electric Power Sector, 2013-2014*.  
[www.kpmg.com/energyaspac](http://www.kpmg.com/energyaspac)
- La Viña, Antonio Gabriel M. 2011. "Peace and Governance: What are the options?" *Mindanao Horizons*. Vol. 2, No. 1.
- Lacson, B. Reydan. 30 September 2010. "Thoughts on Spoilers of Peace and Post MOA-AD Discourse." In *Mindanao Think Tank. Perspectives, Issues, and Concerns on the Mindanao Peace Process*. HD Centre. Accessed 12 February 2014.  
[http://www.hdcentre.org/uploads/tx\\_news/70Monograph4.pdf](http://www.hdcentre.org/uploads/tx_news/70Monograph4.pdf)
- Leslie, Emma. 17 December 2013. "Widening the Table: Hybrid Support Groups in Conflict Mediation." *World Politics Review*. Accessed 3 February 2014.  
<http://www.worldpoliticsreview.com/articles/13442/widening-the-table-hybrid-support-groups-in-conflict-mediation>
- Licklider, Roy. 2005. "Comparative Studies of Long Wars." In Chester Crocker, Fen Osler Hampson, and Pamela Aall, eds. *Grasping the Nettle: Analyzing Cases of Intractable Conflict*. Washington, DC: United States Institute of Peace Press, Washington, D.C.
- Lingga, Abhoud Syed. 30 September 2010. "Reasons Behind the Non-Signing of the MOA-AD." In *Mindanao Think Tank. Perspectives, Issues, and Concerns on the Mindanao Peace Process*. HD Centre. Accessed 12 February 2014.  
[http://www.hdcentre.org/uploads/tx\\_news/70Monograph4.pdf](http://www.hdcentre.org/uploads/tx_news/70Monograph4.pdf)
- Lingga, Abhoud Syed. 1-3 July 2006. "Role of Third Parties in Mindanao Peace Process." Paper for presentation during the International Conference on Peace Building in Asia Pacific: The Role of Third Parties, Khon-Kaenm Thailand.
- "Living in the shadows: displaced Lumads locked in a cycle of poverty." August 2013 Geneva, Switzerland: International Displacement Monitoring Centre and the Norwegian Refugee Council.

- Lubeck, P. 23 October 2013. "Nigeria (3): Democracy, Electoral Politics, & the Shari'a Debate." Lecture in *Muslim Politics and Human Security in Africa*. Washington, DC: Johns Hopkins School of Advanced International Studies.
- Malang, Zainudin S. 19 January 2014. "Examining the Nexus between Philippine Constitutionalism and the Mindanao Conflict." *MinHRAC*. Accessed 15 February 2014. <http://minhrac.ph/examining-the-nexus-between-philippine-constitutionalism-and-the-mindanao-conflict/>
- Manning, Carrie. 2004. "Armed Opposition Groups into Political Parties: Comparing Bosnia, Kosovo, and Mozambique." *Studies in Comparative International Development*. Vol. 39, No. 1.
- Manual of Instructions for Coordinating Committee on the Cessation of Hostilities (CCCH) and Local Monitoring Teams (LMTs) (2001).*
- Martin, Eugene G. 2011. "Managing DDR and SSR Programs in the Philippines." In Melanne A. Civic, and Michael Miklaucic. *Monopoly of Force: The Nexus of DDR and SSR*. Washington DC: National Defense University, Institute for National Strategic Studies.
- Mason, J. A. Simon and Matthias Siegfried. 1 March 2010. *Debriefing Mediators to Learn from Their Experiences*. Washington, DC: United States Institute of Peace Press.
- Mastura V. Ishak. 30 September 2010. "Whatever Happened to the Mindanao Peace Process?" In *Mindanao Think Tank. Perspectives, Issues, and Concerns on the Mindanao Peace Process*. HD Centre. Accessed 12 February 2014. [http://www.hdcentre.org/uploads/tx\\_news/70Monograph4.pdf](http://www.hdcentre.org/uploads/tx_news/70Monograph4.pdf)
- Mastura V. Ishak. October 2011. "Geopolitical Games and Malaysian Mediation in the Philippines." *Jindal Journal of International Affairs*. Vol. 1. Issue 1.
- McKenna, Thomas M. 1998. *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines*. Berkeley: University of California Press.
- Medina, Andrei. 4 February 2014. "MNLF, BIFF form alliance – report." *GMA News Online*. <http://www.gmanetwork.com/news/story/346990/news/nation/mnlf-biff-form-alliance-report>. Accessed 19 February 2014
- Memorandum of Agreement on Ancestral Domain (2008).*
- Mungara, Suraj. 2011. "Sovereign Sensitivities: The Impact of Nation-States as Mediators in the Mindanao Conflict." In P. Terrence Hopmann and I. William Zartman, eds. *Mindanao: Understanding Conflict 2011. Conflict Management*

*Program Student Field Trip to Mindanao*. Washington, DC: School of Advanced International Studies – JHU.

- Nissen, Astrid and Klaus Schlichte. 2006. *From Guerilla War to Party Politics: Transformation of Non-State Armed Groups in El Salvador and Nicaragua*. Geneva: HD Centre.
- “OCHA Humanitarian Snapshot.” June 2013. Accessed 27 March 2014.  
[http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/DEA17D439B81529BC1257BAA00282D24/\\$file/Mindanao+Snapshot+June2013+final.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/DEA17D439B81529BC1257BAA00282D24/$file/Mindanao+Snapshot+June2013+final.pdf)
- Odaira, Takeshi. 2010. “Contextual Determinants of International Third-Party Mediation: Cases of Internal Armed Conflict in the Asia-Pacific Region.” Ph.D. Dissertation. Waseda University, Japan. Accessed 10 February 2014. <http://www.waseda-giari.jp/>.
- Office of the Presidential Adviser on the Peace Process (OPAPP). 25 January 2014. *Annex on Normalization*. Accessed 15 February 2014.  
<http://opapp.gov.ph/milf/news/annex-normalization>
- Office of the Presidential Adviser on the Peace Process (OPAPP). 13 July 2013. *Annex on Revenue Generation and Wealth Sharing*. <http://opapp.gov.ph/milf/annexes-framework-agreement-bangsamoro>.
- Office of the Presidential Adviser on the Peace Process (OPAPP). 8 May 2013. “Gov’t negotiator says commitment to talks, ceasefire help MILF peace process.” Office of the President of the Philippines. Accessed 15 February 2014.  
<http://opapp.gov.ph/milf/news/gph-milf-won%E2%80%99t-allow-spoilers-derail-peace-process#sthash.qmhBCm9t.dpuf>
- Office of the Presidential Adviser on the Peace Process (OPAPP). 27 February 2013. *Annex on Transitional Arrangements and Modalities*.  
<http://opapp.gov.ph/resources/annex-transitional-arrangements-and-modalities>.
- Office of the Presidential Adviser on the Peace Process (OPAPP). 10 February 2011. “Terms of Reference of the International Monitoring Team (IMT).”
- Office of the President of the Philippines. 7 October 2012. “Give Peace in Mindanao a Chance.” Speech of Sec. Teresita Quintos Deles during the signing of the Framework Agreement on the Bangsamoro.  
<http://www.president.gov.ph/special/give-peace-in-mindanao-a-chance/>. Accessed 16 February 2014.

- “Othman Confirms Malaysia’s Staged IMT Pull-out (08KUALALUMPUR343 ).” 5 May, 2008. *Wikileaks*. Accessed 7 February 2014.  
<http://wikileaks.org/cable/2008/05/08KUALALUMPUR343.html>
- Panares, Pangco Joyce. 30 January 2014. “Palace pleads to Congress to give peace deal a chance.” *Manila Standard Today*. Accessed 10 February 2014.  
<http://manilastandardtoday.com/mobile/2014/01/30/palace-pleads-to-congress-to-give-peace-deal-a-chance/>
- Parks, Thomas, Nat Colletta, and Ben Oppenheim. 2013. *The Contested Corners of Asia: Subnational Conflict and International Development Assistance*. The Asia Foundation.
- Patria, Arveen Kim. 8 March 2013. “Payments to Sulu Sultan not ‘rent’, Malaysia says.” *Yahoo! Southeast Asia Newsroom*. Accessed 15 February 2014.  
<http://ph.news.yahoo.com/payments-to-sulu-sultan-not--rent---malaysia-says-072447451.html>
- Penetrante, Ariel Macaspac. 28 March 2012. “Dealing with Biased Mediation: Lessons from the Malaysian and Libyan Mediation in the Philippines.” Paper presented at the Panel on Mediation: A Tool of Conflict Transformation of the International Studies Association (ISA) Annual Convention, San Diego, USA, 1-4 April 2012. Accessed 15 February 2014. <http://dx.doi.org/10.2139/ssrn.2030251>
- Penetrante, Ariel. Macaspac. 28 March 2012. “Facilitating Intractable Political Transformation of Armed Rebel Groups: Bridging Gaps between Transformation and Peace Agreements.” Paper Presented at the Panel on Peace Process and Conflict Resolution of the International Studies Association (ISA) Annual Convention San Diego.
- Philippine Human Development Report*. 2012-2013. “Geography and Human Development.”
- Philippine Human Development Report*. 2005. “Human Security.”
- Piccio, Lorenzo. “Top Development Aid Donors to the Philippines.” *DevEx News*. Accessed 27 March 2014. <https://www.devex.com/en/news/top-development-aid-donors-to-the-philippines/82313>
- Pottenaum and Kramer. 2001. “Civil War, Public Goods & the Social Wealth of Nations.” *Working Paper*. Ithaca, NY: Department of Applied Economics and Management, Cornell University.
- Quintos-Deles, Teresita and Marj Ibañez, Marj. 2013. “Home-grown Peace in Mindanao and the Role of Third-Party Mediation.” In *Building Peace in 2013: Reflection and Experiences from the Oslo Forum Network*. HD Centre. Accessed 13

- February 2014.  
[http://www.peacewomen.org/assets/file/Resources/Government/building\\_peace\\_in\\_2013.pdf](http://www.peacewomen.org/assets/file/Resources/Government/building_peace_in_2013.pdf)
- Raman, Akhila. May 2013. *The Role of Gender in Conflict Resolution*. Paper written for Professor P. Terrence Hopmann's class at SAIS Europe: Principles and Practices of Conflict Management.
- Ramsbotham, Oliver, Tom Woodhouse, and Hugh Miall. 2011. *Contemporary Conflict Resolution*. 3rd edition, Cambridge, UK: Polity.
- Randall, Vicky. 2008. "International Support for Political Party Development in War-torn Societies." In Benjamin Reilly and Per Norlund, eds. *Political Parties in Conflict-prone Societies: Regulation, Engineering and Democratic Development*. Tokyo: United Nations University Press.
- Rasul, Amina. 2007. *Broken peace? assessing the 1996 GRP-MNLF final peace agreement*. Makati City: Konrad Adenauer Stiftung.
- Reilly, Benjamin. 2008. Introduction. In Benjamin Reilly and Per Norlund, eds. *Political Parties in Conflict-prone Societies: Regulation, Engineering and Democratic Development*. Tokyo: United Nations University Press.
- Republic Act No. 9710. 14 August 2009. "The Magna Carta of Women."
- Republic Act No. 9054. 31 March 2001. "An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, amending for the Purpose Republic Act No. 6734."
- Republic Act No. 6734. 1 August 1989. "An Act Providing for an Organic Act for the Autonomous Region of Muslim Mindanao."
- Rodriguez, Diana and Santos, Soliman. 2010. *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*. Geneva: Small Arms Survey, HEI.
- Rood, Steve. 17 October 2012. "Internationals, Malaysia, and Negotiations for Peace in the Philippines." The Asia Foundation. Accessed 3 February 2014.  
<http://asiafoundation.org/in-asia/2012/10/17/internationals-malaysia-and-negotiations-for-peace-in-the-philippines/>
- Romero, Alexis. "Military Declares End of Offensive vs. BIFF." 3 February 2014 *The Philippine Star*. <http://www.philstar.com/headlines/2014/02/03/1285992/military-declares-end-offensive-vs-biff>
- Rothschild, Donald and Elizabeth M. Cousens. 2002. *Ending Civil Wars: The Implementation of Peace Agreement*. Boulder, CO: Lynne Reiner Publishers.

- Santos, Lean Alfred. 27 January 2014. "High Hopes for Philippine Development After Peace Deal." *DevEx News*. <https://www.devex.com/en/news/high-hopes-for-philippine-development-after-peace/82726>
- Santos, Soliman M. 25 April 2013. "The Role of Islamic Diplomacy in the Mindanao Peace Process." *Asia Peacebuilding Initiatives*. Accessed 12 February 2014. <http://peacebuilding.asia/the-role-of-islamic-diplomacy-in-the-mindanao-peace-process/>
- Santos, Soliman M. 2010. "MNLF Integration into the AFP and the PNP: Successful Cooptation or Failed Transformation? (Case Study)." In Diana Rodriguez and Soliman Santos, eds. *Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines*. Geneva: Small Arms Survey.
- Santos, Soliman M. 2 November 2010. "Aquino's GRP-MILF Peace Talks: Hopes, Fears, Tasks." *Our Mindanao*. Vol. 1. No 1.
- Santos, Soliman M. 2003. "Malaysia's Role the Peace Negotiations Between the Philippine Government and the Moro Islamic Liberation Front." Southeast Asian Conflict Studies Network. *Peace and Conflict Research Report. Number 2*.
- Sheppard, Blair. 1984. "Third Party Conflict Intervention: A Procedural Framework." *Research in Organizational Behavior*. Vol. 6.
- Siniver, Asaf and Peter Thomas. 2011. "Third Party Mediation in the Arab-Israeli Conflict." University of Hull (draft – permission needed for citation). Accessed 10 February 2014. <http://www2.hull.ac.uk/fass/pdf/Siniver-Third%20Party%20Mediation%20in%20the%20Arab-Israeli%20Conflict.pdf>
- Smock, R. David and Amy L. Smith. 1 August 2008. *Managing a Mediation Process*. Washington, DC: United States Institute of Peace Press.
- Snodgrass, Donald R. 2004: "Restoring Economic Functioning in Failed States." In Robert I. Rotberg, ed. *When States Fail: Causes and Consequences*. Princeton, NJ: Princeton University Press.
- Stedman, Stephen John. 2000. "Spoiler Problems in Peace Processes." In Paul C. Stern and Daniel Druckman, eds. *International Conflict Resolution after the Cold War*. Washington, DC: National Academies Press.
- Stedman, Stephen. Autumn 1997. "Spoilers in the Peace Process." *International Security*. Vol. 22, No. 2.
- Stewart, Rory. 2011. "The Plane To Kabul." In Rory Stewart and Gerald Knaus, eds. *Can Intervention Work?* W.W. Norton & Company, New York.

- “The Bangsamoro Transition Commission.” April – June 2013. *Autonomy & Peace Review*. Institute for Autonomy and Governance.
- Tuyay, Francisco. 15 February 2014. “MNLF Wants Basic Law Final Draft.” *Manila Standard Today*. Accessed 15 February 2014  
<http://manilastandardtoday.com/2014/02/15/mnlf-wants-basic-law-final-draft/>
- United Nations Security Council. 31 October 2000. *United Nations Security Council Resolution 1325*.
- United Nations Entity on Gender Equality and the Empowerment of Women (UNWOMEN). October 2012. *Women’s Participation in Peace Negotiations: Connections between Presence and Influence*.
- United States Agency for International Development. 2012. “Country Development Cooperation Strategy 2012-2016.” Accessed 27 March 2014  
[http://www.usaid.gov/sites/default/files/documents/1861/CDCS\\_Philippines\\_FY2012-FY2016.pdf](http://www.usaid.gov/sites/default/files/documents/1861/CDCS_Philippines_FY2012-FY2016.pdf)
- Unruh, John, and Rhodri Williams, eds. 2013. *Land and Post-Conflict Peacebuilding*. New York: Routledge.
- Vatikiotis, Michael. 6 March 2013. “Malaysia the Moderate Peacemaker.” *The Wall Street Journal*. Accessed 5 March 2014.  
<http://online.wsj.com/news/articles/SB10001424127887324178904578341911094435252>
- “Women in the Bangsamoro speak up on ‘Better Bangsamoro for all.’” *Edge DAVAO*. Accessed 8 March 2014.  
[http://edgedavao.net/index.php?option=com\\_content&view=article&id=14779:women-in-the-bangsamoro-speak-up-on-better-bangsamoro-for-all&catid=60:special-feature&Itemid=85](http://edgedavao.net/index.php?option=com_content&view=article&id=14779:women-in-the-bangsamoro-speak-up-on-better-bangsamoro-for-all&catid=60:special-feature&Itemid=85)
- World Bank. 10 April 2013. “A Multi-Donor Fund that Supports Reconstruction and Development in Mindanao.” Accessed 1 February 2014.  
<http://www.worldbank.org/en/results/2013/04/10/addressing-the-needs-of-conflict-affected-communities-in-southern-philippines>
- Zartman, I. William, and Guy Olivier Faure. 2005. “The Dynamics of Escalation and Negotiation.” In I. William Zartman and Guy Olivier Faure, eds. *Escalation and Negotiation in International Conflicts*. New York: Cambridge University Press.
- Zartman, William and Saadia Touval. 1996. “International Mediation in the Post-Cold War Era.” In Chester A. Crocker, Fen Osler Hampson and Pamela Aall, eds. *Managing Global Chaos*. Washington, DC: United States Institute of Peace Press.

Zeeuw, Jeroen de. 2008. *From Soldiers to Politicians: Transforming Rebel Movements After Civil War*. Boulder, CO: Lynne Rienner Publishers.