

Peace with the Moros of the Philippines: An independent assessment

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Established in 1984, the Moro Islamic Liberation Front (MILF) is a breakaway group of the Moro National Liberation Front (MNLF). The MILF rejects the peace pact the MNLF signed with the Government of the Republic of the Philippines (GRP) on September 2, 1996. Specifically, the MILF considers the political autonomy granted to the Moro people under the 1996 GRP-MNLF Final Peace Agreement as inadequate and unresponsive to the root causes of the conflict. Thus, even as Manila was negotiating with the MNLF, the MILF quietly built up its armed forces and mass base of supporters.

By the time Manila concluded negotiations with the MNLF, the MILF had become a formidable force with more than 12,000 armed fighters. Even so, encouraged by his success with the MNLF, President Fidel Ramos sent overtures to the MILF as early as August 1996. The MILF responded positively, emboldened as it was by the political will demonstrated by President Ramos, and intrigued by the chance to further its Islamic agenda. The GRP-MILF peace process officially began in October 1996 with the formation of the GRP and MILF technical committees on cessation of hostilities and agenda-setting.

The heart of the GRP-MILF peace talks is the MILF's demand for the return and recognition of Moro ancestral domain. The MILF's draft proposal to the talks defines ancestral domain as all lands and areas, including the environment and natural resources therein, of the Bangsamoro people, established through occupation, possession and dominion since time immemorial by cultural bond, customary law, historic rights and legal titles. The MILF derives the legal and historical basis for its claims to the Moro ancestral domain from the following: Bangsamoro treaties with Spain and other foreign powers; international law and conventions; customary adat law and Islamic law and jurisprudence; and other historical documents during the Philippine revolutionary and American colonial periods. The MILF considers most parts of Mindanao, Sulu and Palawan as part of their ancestral domain.

The GRP is proposing to the MILF the merging of the present five-provinces and one-city, which make up the Autonomous Region in Muslim Mindanao (ARMM) and whose formation was agreed between the GRP and the Moro National Liberation Front in 1996, with 613 scattered barangays (villages) which have a predominantly Moro population. The MILF, however, envisions a larger contiguous territory consisting of the ARMM plus approximately 3,900 barangays and extending to the Christian-dominated provinces of North and South Cotabato, Sultan Kudarat, Sarangani, Bukidnon, Zamboanga peninsula, Lanao del

Norte and parts of Davao Oriental. The MILF declares that it is open to negotiate on the extent of the Moro ancestral domain, but it is firm on its position that the determination of what constitutes that ancestral domain should not be subject to the processes envisioned in the Philippine Constitution for instances of reforms of internal boundaries¹.

Milestones

The GRP-MILF talks may be divided into two phases: the domestic stage (1996–2000), during which negotiations were conducted in the Philippines without third-party mediation, and the diplomatic stage (2001–present), during which international players have been involved, including Malaysia, which is acting as a third-party facilitator. The following are the milestones in the negotiations so far:

January-February 1997: The MILF submitted an agenda for talks, which included among other issues the following: recognition of the Moros' ancestral domain and of their displacement and landlessness; reparation for victims of the war for such acts as destruction of property and violation of human rights; ending of social and cultural discrimination; solution to economic inequalities and widespread poverty among the Moros; ending of exploitation by outsiders of the Moro homeland's natural resources; and implementation of genuine agrarian reform.

July 18, 1997: The two parties signed a document entitled "Agreement for General Cessation of Hostilities." However, armed hostilities between government troops and the MILF recurred with regularity and reached their peak in the all-out war in 2000. After 2000 and with the entry of foreign ceasefire monitors, the situation has rapidly improved, with only 15 armed encounters in 2004, ten skirmishes from January to March 2005, and none at all from April 2005 until the present.

April 2000: The MILF withdrew from the talks after President Joseph Estrada, Ramos's successor, ordered military offensives to capture MILF fixed camps, including Camp Abubakar, the group's headquarters.

November 2000: President Gloria Macapagal Arroyo, who succeeded President Estrada, reversed the all-out war policy against the MILF and resumed negotiations.

June 22, 2001: The GRP and the MILF signed the "Tripoli Peace Agreement of 2001," which called for the talks to focus on three aspects, namely security, rehabilitation, and ancestral domain.

August 7, 2001: The GRP and the MILF agreed to activate the "Implementing Guidelines on the Security Aspect of the Tripoli Peace

¹ Quoting MILF Panel Chair Mohagher Iqbal, www.mindanews.com, September 24, 2006.

Agreement.” They called for the formation of a monitoring team under the auspices of the Organization of Islamic Conference (OIC). This eventually took the form of a Malaysia-led International Monitoring Team tasked with monitoring the two parties’ adherence to the ceasefire agreement, with coordinating activities by the Coordinating Committee on the Cessation of Hostilities of the GRP and the MILF. Local monitoring teams were also formed to conduct fact-finding inquiries.

May 6, 2002: A GRP-MILF Ad Hoc Joint Action Group (AHJAG) was activated to interdict criminal elements in conflict-affected areas. This joint GRP-MILF body is composed of a core group and five teams that share intelligence information on terrorist and criminal elements in MILF areas. The intelligence provided by the MILF was instrumental in successful Philippine military operations against a number of kidnap-for-ransom groups.

May 7, 2002: The GRP and the MILF signed an agreement entitled “Implementing Guidelines of the Humanitarian, Rehabilitation and Development Aspects of the Tripoli Peace Agreement” that bound each party to observe international humanitarian law, respect internationally recognized human rights instruments, and protect evacuees and displaced persons. Echoing a provision in the Tripoli Agreement, it was agreed that the MILF would determine, lead and manage rehabilitation and development projects in conflict-affected areas through a project implementing body, the Bangsamoro Development Agency (BDA).

February 2003: Philippine military troops launched offensives to capture the MILF’s new headquarters in Buliok in the town of Pikit in Cotabato province. The peace talks were suspended.

April 2004: The 60-member International Monitoring Team established by the Tripoli agreement and composed of contingents from Malaysia, Brunei and Libya began its mission. On the socio-economic front, the GRP and the MILF endorsed the conduct of the World Bank-led Multi-Donor Trust Fund (MDTF)-Joint Needs Assessment (JNA).

August 2004: The talks resumed after the GRP agreed to withdraw its troops from Buliok and to drop criminal charges it had lodged against certain MILF leaders.

April 18-20, 2005: At the seventh round of exploratory talks, the two sides tackled the contentious issue of ancestral domain, specifically the three strands of concept, which refers to the definition of ancestral domain, territory (area of coverage), and resources. The fourth strand, the governance of a juridical entity for the Bangsamoro, was discussed in the ninth round of exploratory talks held on September 15-16, 2005. The parties agree to move forward in accordance with the following principles on ancestral domain:

1. Recognition of the rights of Bangsamoro people and other indigenous groups in Mindanao;
2. Recognition of a Bangsamoro homeland;
3. Common definition of ancestral domain and ancestral land;
4. Adherence to international humanitarian law and human rights instruments;
5. Protection and preservation of natural resources within the ancestral domain for future generations;
6. Utilization and development of resources within the ancestral Domain and/or ancestral lands;
7. Joint determination of extent of Bangsamoro ancestral domain,
8. Self-governance rooted in a distinct political/cultural history;
9. Appropriate and workable self-governance institutions for the Bangsamoro people.

The recognition of a homeland for the Bangsamoro, where the Moro people can exercise self-governance rooted in their distinct political and cultural history, is a great step forward, because it lays the foundation of the negotiated political settlement to address the grievances of the Moro people. It must be noted, however, that the details for operationalizing these principles are yet to be agreed upon by the parties.

September 5-7, 2006: At the 13th round of exploratory talks, held in Kuala Lumpur, the two parties announced that they could not reach agreement on the issue of territory. Both the GRP and the MILF emphasized, however, that while the impasse was yet to be resolved, the talks did not break down.

Good news

Until the impasse, the GRP and MILF panels had been issuing optimistic assessments of the progress of the talks. The Philippine government even predicted that an agreement may be reached before the end of the year. The speculation is that two of the three main talking points – that is, security and rehabilitation – have already been fully resolved.

On security, the ceasefire agreement has been holding. This is the handiwork of the Joint GRP-MILF Ceasefire Committee, which liaises closely with several local monitoring teams all over the 13 conflict-affected Mindanao provinces and with the International Monitoring Team, consisting of 60 military and civilian members from Malaysia, Brunei and Libya. The Ad Hoc Joint Action Group (AHJAG), created to arrest criminal elements in the conflict-affected areas, has solved more than ten cases of kidnap for ransom.

On the issue of rehabilitation, the Bangsamoro Development Agency (BDA) has started work on determining what development activities are needed in Bangsamoro areas, and leading and managing those projects. A capacity-building program for BDA personnel is ongoing, while a GRP inter-agency Technical

Working Group partners with BDA on projects in MILF communities. The mechanism for the Bangsamoro Leadership and Management Institute is also being put in place as the main instrument for capacity-building among Moro leaders and professionals. The Joint Needs Assessment for Mindanao Trust Fund will release US\$150 million once a peace agreement is signed.

Hurdles and barricades

The talks tackled the “easy” issues first, namely the general principles, while leaving the hard part of fleshing out the details and “operationalization” of these principles for later. Highlighting the formidable obstacles in the talks, an observer notes that at this stage, the parties will “contend with hurdles, then the barricades.”² The “hurdles and barricades” can be summed up thus:

1. Constitutional and Statutory Processes

The MILF insists that the determination of the Bangsamoro territory in the strand of ancestral domain should not be subject a plebiscite. On the other hand, the GRP posits that the determination of this territory must be subject to the country’s existing constitutional and legislative processes, which require a plebiscite. Under Section 10 of Article X of the Philippine Constitution, “no province, city, municipality, or barangay may be created, divided, merged, abolished or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.”

The MILF prefers that the determination of the Moro territory be finalized in its bilateral talks with the GRP and is averse to subjecting it to the Philippine Constitution and to acts of the Philippines legislature. This MILF position is due to the following:

First, the MILF has learned from the implementation of the 1977 GRP-MNLF Tripoli Agreement and the 1996 Final Peace Agreement, where the issue of which areas should be part of the autonomous region was subjected to a plebiscite. In the end, the Moro people lost a substantial number of claimed territories to the Christian majority.

Second, the MILF is convinced that given a role in implementing the peace pact, the Philippines Congress, which is dominated by a Christian majority, will most likely dilute the concessions given to the Moro people in an enabling statute, just as it did in the implementation of the GRP-MNLF deal.

2. GRP-MNLF Final Peace Agreement

In the negotiations on Moro territory, the GRP and the MILF have to contend with the 1996 GRP-MNLF agreement. This is so because the new territorial arrangement being negotiated envisages a new Bangsamoro juridical entity

² Commentary of Patricio Diaz, Mindanews, September 18, 2006

whose core will be the present Autonomous Region in Muslim Mindanao (ARMM), which is a product of the 1996 GRP-MNLF pact. First, the new juridical entity will encompass a larger territory than the present ARMM. Second, the juridical entity will have more powers than the autonomous region. Third, the relationship between this new juridical entity and Manila will most likely be reconfigured, consistent with the recognition of the new juridical entity as a quasi-state. This is premised on the acceptance by the GRP of MILF's position to form an associative relationship with Manila.

In any case, a GRP-MILF peace deal that “tinkers” with the present ARMM supersedes the GRP-MNLF peace deal and Republic Act 9054 which is the organic law that created the autonomous region. Will the MNLF and the Organization of Islamic Conference, which still recognizes only the MNLF as the representative of the Bangsamoro people, agree with the proposal to amend the terms of the 1996 Final Peace Agreement? Getting their concurrence means that they should be involved in the GRP-MILF talks. So far, the MNLF has been left out in the talks, although informal consultations between the OIC, GRP, MNLF and the MILF are underway.

3. Public and Political Support of a Peace Pact

From the beginning, the GRP-MILF negotiations have been held as a “closed-door, all GRP-MILF-Malaysia affair.” While the shroud of secrecy may have allowed the discussions to proceed without much distraction from special-interest groups, it also heightened the public's distrust. Local political leaders have demanded that they must be consulted, if not included as participants, in the talks. The MNLF has likewise asked for participation. Shut out from the negotiations, citizens have embarked on self-help initiatives that owe little to the top-level talks. One example is the establishment of sanctuaries/zones/spaces for peace in grassroots communities.

The lessons of the 1996 GRP-MNLF agreement highlight the importance of public support in implementing a Mindanao peace pact. The establishment of the Special Zone of Peace and Development (SZOPAD), which was envisioned to bring about a strong autonomous region for Muslims, Christians and indigenous groups, met stiff resistance from the Christian majority who strongly resisted being made part of a Moro region. In the end, the SZOPAD concept failed for lack of public support. SZOPAD, on paper, did not carry much emotional baggage, because its main focus was economic development. The Moro homeland that will emerge from the GRP-MILF talks is different. It is anchored on the Moros' historical claim against the settlers who now comprise the Christian majority—an issue which is more emotional and personal than the economic spin of the SZOPAD. Success will be predicated on strong support not only among Mindanao's inhabitants, but also among policymakers and leaders in Manila.

Another point to consider is that the political and economic crisis the Philippines is facing has considerably weakened the hand of President Arroyo to

build strong consensus for Moro self-determination. A comprehensive ancestral domain pact may require legislation and possibly amendments to the constitution. Even if President Arroyo manages to remain in office, her ability to implement meaningful reforms may be impaired because of lingering questions about her mandate and credibility.

In addition, the biases and prejudices against Muslims in the Philippines are deep-seated. Strong resistance and protests from the Christian majority will surely meet any agreement construed as giving them too many concessions. It will therefore require a strong, credible and charismatic leadership to build strong support for more self-determination for the Moros. The relatively strong and credible President Fidel Ramos had limited success in building such broad support for the 1996 Peace agreement with the MNLF. It defies logic that a President Arroyo with weakened political will, questionable mandate and eroding public support can do more than a Ramos.

Prospects and options

Since the impasse on territory was announced, the MILF has been issuing statements urging the GRP to think outside the “constitutional box.” MILF Chairman Al Haj Murad Ibrahim says that the MILF “is not telling the government to violate its constitution, but with enough political will, creativity and tact, and willingness to sacrifice some of its so-called national interests and clip those vested interest in Mindanao, it can present a decent, reasonable and acceptable formulation on territory”.³ GRP Panel Head, Silvestre Afable, counters that the constitutional option presented by the government is “consistent with socio-demographic realities that will ensure just and durable peace.”

Interspersed among these statements of moderation are strong words that raise the specter of war in the event the talks totally collapse. Chairman Murad made reference to the possibility that the Bangsamoro may seek “other means to continue their struggle for freedom and self-determination, if the government treats the peace talks as mere counter-insurgency tool.”⁴ Executive Secretary Eduardo Ermita insists that adhering to the Philippine Constitution is non-negotiable. Asked whether the government is prepared to go to war if the talks collapse, Ermita said: “Nobody can scare the government on anything. We are the government. We have the armed services, we have the police”.⁵

Joining the fray, Malaysian facilitator Datuk Othman bin Abdu’ Razak was quoted as saying “that if the talks cannot move forward because the government has nothing to offer, the Malaysian government will pull out the International Monitoring Team in Mindanao, because it is useless”.⁶ This pronouncement cast

³ Statement issued on September 18, 2006, Camp Darapanan, Maguindanao

⁴ *ibid*

⁵ http://services.inq7.net/express/06/09/28/html_output/xmlhtml/20060927-23417-xml.html

⁶ www.luwaran.com, September 13, 2006.

a shadow on Malaysia's supposed neutrality as third-party facilitator, but it was not disavowed by the Malaysian government.

The propaganda war has begun. The MILF, goes a one-liner, is demanding a Moro homeland, and the GRP offers a hometown. Another one-liner describes the counter-offer of the GRP to the MILF's demand for a contiguous territory as "leopard's skin".

The GRP's options look stark. First, if it insists on the formulation that any expansion of the ARMM for the proposed Bangsamoro Juridical Entity shall be in accordance with "constitutional processes," it runs the risk of failure because the MILF will not accept it. Second, if the government commits to deliver to the MILF a wider tract of areas minus the phrase "constitutional process," there could a backlash against the Arroyo regime in the May 2007 elections. Third, if the government repeats its all-out war against the MILF as it did in 2000 and 2003, the talks would collapse completely, because the MILF will not take this sitting down.⁷

Civil society groups have mobilized to avert the resumption of armed hostilities. A coalition of peace advocates has called on the parties to explore all avenues to resolve the impasse on territory. It suggested an independent commission be formed by the panels to explore options on territory. The Bishops-Ulama Forum is convening a workshop for Mindanao leaders to help find possible solutions to the dispute.

While the media plays up the war scenario, the impasse over the issue of territory must not be viewed as more than what it actually is – a contentious issue that can still be resolved by reasoned negotiations. No one expected that negotiations on an emotional issue such as ancestral domain to be easy. The impasse may turn out to be good for the process as it provides the opportunity for the parties to reassess their positions and for the general public to finally get involved in a process that will have a great impact on their lives.

As long as parties continue to dialogue, all options are open. Among these are:

- **Widen the parameters of the talks to allow cross-issue bargaining.** Apparently, the ongoing negotiations are focused solely on the narrow issue of territory, leaving the panels little room for bargaining. Negotiating the issue of territory alongside resources and governance, for instance, may unlock a mutually acceptable formula to resolve the dispute on territory.
- **Focus on interests, rather than on positional bargaining.** Both parties may find ways to reconcile their interests without giving up their

⁷ Quoting Muhammad Ameen, chairperson of the Secretariat of the MILF, www.luwaran.com, September 23, 2006.

avowed positions by clarifying what exactly are the underlying interests in the GRP's insistence on a constitutional framework and the MILF's position that the determination of Moro territory be unconditional. For instance, if the GRP's underlying interest is to maintain the primacy of the constitution and Philippine laws in the negotiations, can this be addressed during a transition period, when the GRP builds consensus among leaders to amend the Philippine constitution to accommodate the terms of the peace agreement? The MILF says that it can compromise on territory, but not on the process of territorial determination which it insists should be unconditional. This indicates that the MILF's interest is less territorial, per se, and more on ensuring that the agreement is implemented in letter and spirit. Learning from the MNLF experience, the MILF apparently wants more guarantees from the GRP to deliver on its commitments under the pact. Perhaps, such guarantee can be backed up by a foreign country or an international entity.

- **Explore, clarify and work around the finer concepts of ancestral domain and Bangsamoro Juridical Entity (BJE).** These concepts are currently used interchangeably, which may not necessarily be accurate, since each construct is anchored differently – ancestral domain is a historical concept, while the BJE is concept dealing with political governance. It is therefore possible to craft a formula where Moro ancestral domain covers a broader area than the BJE, which would be structured as a compact and contiguous political subdivision in order to ensure good governance. But this approach necessitates that the parties agree on the implications of being part of the acknowledged ancestral domain and the BJE. In any case, this opens a menu of possibilities to resolve the territorial dispute.

