

# Breaking the Impasse: Formulae for Muslim Autonomy

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Observers of the international scene note how the integration of nations has actually propelled the disintegration of these same nations. In an introduction and overview to the *International Affairs* issue on Ethnicity and International Relations, J.E. Spence describes “a salient feature of the post-Cold War international system: the divisive impact of ethnicity and its opposite — the seemingly inevitable spread of a global culture transcending national boundaries...”<sup>1</sup> Violent inter-ethnic antagonisms in the former Soviet Union, Yugoslavia, parts of Africa and South Asia affirm the trend. Ethnic nationalism is pulling apart what capital, market and technology are bringing together. The first tendency has been described as centrifugal, and the latter, centripetal; or as Spence notes, disruptive in the case of the former, and allegedly benign, in the latter’s case.

In this global backdrop, the negotiated political settlement between the Government of the Republic of the Philippines (GRP) and the Moro National Liberation Front (MNLF) would seem exceptional. Forged in September 1996, the agreement ended almost 30 years of war and provided a feasible arrangement for Muslim self-governance that did not diminish the current Philippine state and territory.

## *Background*

The settlement was achieved not insignificantly because of the Ramos administration’s perceived demands of the global economy — namely, political stability, peace and order. It is therefore a case where the forces of economic integration were an impetus for the peaceful resolution of ethnic strife. If former president Ferdinand Marcos had left the economy in ruins and Corazon Aquino’s

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six-year term was consumed by political troubles, Fidel Ramos made economic growth and global competitiveness the linchpin of his career as President. His "Philippines 2000" program aims to move the country to NIC (newly industrializing country) status by the end of the century and keep it in pace with the neighboring tiger economies. An important segment in this turn-of-the-century vision is the development of Mindanao as part of the East ASEAN Growth Area (EAGA) which includes Brunei, Malaysia's Northern Borneo territory and Indonesia's northern islands.

Twenty percent of the population in Mindanao are Muslims. Nationwide, Muslims make up 4.6 percent of the population.<sup>2</sup> Muslims in Mindanao, have long felt alienated from the highly centralized and personalistic nature of the Philippine state. The Christian-dominated state, for a long time, has only given a few token positions reserved for Muslims. Incorporation in the colonial state and migration has Christianized previously Islamic territories and took political power away from the hands of the indigenous elites. For instance, by the 1960s, the old Islamic kingdom of Cotabato was sliced up into two, with South Cotabato already predominantly Christian and 22 of 35 municipalities of North Cotabato under Christian mayors.<sup>3</sup>

The situational approach to understanding ethnic politics and the state views ethnic consciousness and mobilization as a consequence of changes in social, economic and political arenas—for example, manipulative mobilization activities of elites and economic disparities among regions.<sup>4</sup> Conflicts arising from ethnicity may or may not arise, depending on a host of factors, including the presence of an alternative leadership and the state's response to the resistance.

The government's purposeful negotiating stance was evidently a situational response to global demands on the nation. Similarly, a situationalist approach to understanding the MNLF's negotiating position could explain the flexibility manifested by the MNLF.

In Mindanao, Moro leadership was provided in the 1970s by young men trained in combat by their more traditionalist elders, a number of whom occupied elective posts in local government and Congress. Men like MNLF Chair Nur Misuari, however, broke off from these traditionalist elders to espouse a more organized, nationalist resistance to the political, economic and cultural marginalization that the Muslims have suffered under the homogenizing, Manila-centered state. They demanded an independent Bangsa Moro (Moro Nation) homeland for the 13 Islamized ethnolinguistic groups in Mindanao.

In the mid-1970s, large parts of the Southern Philippines was caught in a ruthless war between rebel and government forces. By 1976, 50,000 to 100,000 have reportedly been killed; refugees numbered two million; 200 schools were burned; 535 mosques desecrated; and 35 towns and cities destroyed.<sup>5</sup>

The MNLF earned recognition as the representative of the Moro people, even as factional strife inside the Front gave birth to other Muslim rebel groups like the more theologically orthodox Moro Islamic Liberation Front (MILF), and the MNLF-Reformist Group (MNLF-RG). The latter chose to collaborate with the Marcos regime.

If ethnic mobilization was a response to the critical situation that saw its peak in the 1970s, the decision of the MNLF to negotiate for a real settlement in 1992 was also a rational and pragmatic response to the changed situation. Pressure from the Organization of Islamic Conference (OIC), which has financed its operations locally and abroad, was evicently a powerful influence. Although the OIC granted the MILF observer status, the MNLF failed to earn full membership despite the concentration of its efforts toward this end. Diplomatic ties between OIC member-countries and the Philippine state have also improved progressively throughout the decades.

War fatigue has also taken its toll on MNLF fighters, many of whom have surrendered to the state under various rebel returnee programs. Social divisions based on tribe (the MNLF, for instance, is Tausug-based while the MILF is dominated by the Maguindanao and the MNLF-RG, by the Maranao), clan, political party affiliation, degree of religious orthodoxy, and wealth weakened the force of Muslim resistance. Meanwhile, economic deprivation was forcing many Muslims to seek employment abroad as contract workers or illegal migrants. The MNLF could no longer sustain an all-out war even though it had the arms.

These factors conducive to reverting to negotiations eventually led to a two-phased autonomy formula that strategically changed the terms of engagement between the two parties — from war enemies to partners in peace and development. The first three-year phase called for the formation by executive fiat of the Southern Philippines Council for Peace and Development (SPCPD) that covered 14 provinces of Mindanao and Palawan. The second phase provides for the setting up of a regular autonomous government, constitutional amendments to the existing Organic Act for the Autonomous Region of Muslim Mindanao (Republic Act No. 6734), and a plebiscite to determine what provinces will be part of the regular autonomous government.

## *Past Autonomy Schemes*

In the mid-1970s, OIC brokered talks led to the signing of the 1976 Tripoli Agreement between the Marcos government and the MNLF. Marcos never implemented the terms of the Agreement. He instead called for a plebiscite, which the MNLF rejected. The outcome of the enforced political exercise became Marcos's basis for creating two, instead of one, autonomous regions in Mindanao covering 10 provinces and seven cities, instead of the 13 provinces and nine cities stipulated in the Tripoli Agreement. The powers granted to the autonomous governments were severely limited to those not under the jurisdiction of the national government. Legislative powers were confined to passing resolutions addressed to the President or concerned agencies. As a result, the MNLF went back to the battlefield.

In 1986, negotiations began anew between the Aquino administration and the MNLF. The outcome was likewise unsatisfactory and, for the MNLF, reminiscent of the past. In compliance with Article 10, Section 18 of the new 1987 Constitution, a referendum was called to determine the coverage of the Autonomous Region of Muslim Mindanao (ARMM). The MNLF boycotted the process and the outcome of only four provinces voting for inclusion in the ARMM further reduced the area of autonomy. In the provinces where Christians made up majority of the population, and in one of the five provinces with a Moro majority, voters rejected inclusion in the autonomous region.

Table 1 lists the coverage of the past autonomy schemes and that of the SPCPD.<sup>6</sup>

Because of these negative experiences with the past administrations, the MNLF has made two items non-negotiable in its talks with the Ramos administration. First, the 13 provinces (now 14) coverage defined as the area of autonomy in the Tripoli Agreement. Second, the setting up of a provisional government without prior need for a plebiscite. The pertinent provisions in the Tripoli Agreement are:

*First: The establishment of Autonomy in the Southern Philipines within the realm of the sovereignty and territorial integrity of the Republic of the Philippines;*

Table 1

## Coverage of Various Mindanao Autonomy Schemes

No. of Provinces	No. of Cities
Original MNLF Proposal Based on the concept of Bangsamoro Ancestral Homeland.	
<b>23</b> <i>Entire Mindanao, Sulu Archipelago and Palawan</i>	<b>17</b>
Tripoli Agreement Signed 23 December 1976 in Libya under the auspices of the Organization of Islamic Conference.	
<b>13</b> <i>Zamboanga del Sur, Zamboanga del Norte, Sulu, Tawi-tawi, Palawan, Basilan, Davao del Sur, South Cotabato, North Cotabato, Lanao del Sur, Lanao del Norte, Maguindanao &amp; Sultan Kudarat.</i>	<b>9</b> <i>Zamboanga, Cotabato, General Santos, Marawi, Iligan, Pagadian, Dapitan, Dipolog and Puerto Princesa</i>
Presidential Decree No. 1618 Implementation of the Organization of the Sangguniang Pampook and the Lupong Tagapagpaganap ng Pook signed 25 July 1979 by President Ferdinand Marcos.	
<b>10</b> <i>Region IX: Zamboanga del Norte, Zamboanga del Sur, Basilan; Sulu, Tawi-tawi; Region XII: Sultan Kudarat, Maguindanao, North Cotabato, Lanao del Norte, Lanao del Sur</i>	<b>7</b> <i>Cotabato, Maguindanao, Iligan, Pagadian, Dapitan, Dipolog, Zamboanga</i>
Republic Act No. 6734 Creating the Autonomous Region in Muslim Mindanao, passed 8 June 1989; approved by President Aquino August 1989.	
<b>4</b> <i>Sulu, Tawi-tawi, Maguindanao, Lanao del Sur</i>	<b>0</b>
Southern Philippines Council for Peace and Development GRP-MNLF 1996 Peace Agreement & E.O. No. 37 (1996)	
Proclaiming a Special Zone of Peace and Development in the Southern Philippines, and Establishing Therefore the Southern Philippines Council for Peace and Development and the Consultative Assembly	
<b>Original 13, now 14</b> provinces, covered in the Tripoli Agreement, Additional: <i>Sarangani Province</i> which was carved from South Cotabato.	<b>9</b> <i>Zamboanga, Cotabato, General Santos, Marawi, Iligan, Pagadian, Dapitan, Dipolog and Puerto Princesa.</i>
<i>Major Refererences: Sukarno Tanggol, Muslim Autonomy in the Philippines: Rhetoric and Reality. Marawi City: Office of the President and Press and Information Office, Mindanao State University, 1993; Rudy Rodil, "Solving the Mindanao Conflict through the Constitutional Process," Mindanao Forum, Issue Number 28 (no year); W.K. Che Man, Muslim Separatism, the Moros of Southern Philippines and the Malays of Southern Thailand. Quezon City: Ateneo de Manila University Press, 1990.</i>	

*Second: The areas of the autonomy for the Muslims in the Southern Philippines shall comprise the following:*

1. Basilan
  2. Sulu
  3. Tawi-Tawi
  4. Zamboanga del Sur
  5. Zamboanga del Norte
  6. North Cotabato
  7. Maguindanao
  8. Sultan Kudarat
  9. Lanao Norte
  10. Lanao Sur
  11. Davao Sur
  12. South Cotabato
  13. Palawan
  14. All the cities and villages situated in the above-mentioned areas
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*15. Immediately after the signature of the Agreement in Manila, a Provisional Government shall be established in the areas of the autonomy to be appointed by the President of the Philippines; and charged with the task of preparing for the elections of the Legislative Assembly in the territories of the Autonomy; and administer the areas in accordance with the provisions of this Agreement until a Government is formed by the elected Legislative Assembly.*

*16. The Government of the Philippines shall take all necessary constitutional processes for the implementation of the entire Agreement.*

For the MNLF, the holding of a referendum that is decided on the basis of majority rule obviously denies voice to the minority. Thus, the MNLF was optimistic after its initial talks with the Ramos administration. On 16 April 1993, in Indonesia, the two parties issued a joint statement known as the Cipanas Statement of Understanding stating that the talks shall "focus on the modalities for the full implementation of the Tripoli Agreement in letter and in spirit."

Although the Philippine government assured the MNLF that it will comply with the Tripoli Agreement, it realized it was difficult to do so for two major reasons. First, the government was constrained to act within the confines of the constitution. In this case, the 1987 Constitution required a prior approval of the majority before an autonomous region takes effect. "(O)nly provinces, cities and geographic areas voting favorably in such plebiscite shall be included in the autonomous region."<sup>8</sup> Secondly, it had to allay the fears and assure the protection of the interests of the majority Christian population. Otherwise, it would face insurmountable opposition from these sectors.

The favorable context of the 1990s was thus not enough to achieve a solution by itself. Without finding a workable arrangement, no political settlement would take place. In fact, six months before the signing date, in March 1996, the talks reached a dead end, a critical departure from the auspicious meetings that took place from 1993 to 1995 in Indonesia and Mindanao. While the committees on education, the judicial system, national defense, and others have mutually defined the terms of agreement, the two contentious issues—the area to be covered in the autonomy and the implementing mechanism—remained to be solved. At that time, it was hard to imagine that a final agreement would be reached at all.

### *Proposed Schemes to Break the Impasse*

This paper looks at the various schemes considered to break the impasse and find a compromise arrangement that will uphold both the provisions of the Tripoli Agreement (MNLF perspective) and Philippine constitutional processes (state perspective). Four such proposed schemes and the pertinent features addressing the two contentious issues are outlined below.

While other issues remained unclear or controversial to the public — such as the number of MNLF soldiers and officers to be integrated into the Armed Forces of the Philippines, the qualifications to be required in accepting MNLF guerrillas in the police force, the distribution of representation in the leadership posts and seats in the Consultative Assembly, the inclusion of a religious advisory council — these were seen as subsidiary to the bigger concern over the scope of the autonomy and the constitutionality of the implementing mechanism. The last two defined the framework for governance and whether or not the historical justice principle (from the MNLF point of view) was to be recognized at all.<sup>9</sup> Thus the focus of this study on these two major concerns.

For convenience, the first three proposals have been labeled “Cluster,” “Irredenta,” and “Transitional” schemes. The last, the SPCPD Proposal, was eventually adopted and incorporated in the final Peace Agreement and Executive Order implementing it.

- ◆ The Cluster Scheme proposed by Sukarno Tanggol of the Mindanao State University groups several municipalities together that can fall under an autonomous region. A maximum option of coverage yields a 44.3 percent Muslim population, while a lesser coverage area (minimum option) yields a majority 53 percent population. (See Annex

A.) The clustering makes possible a sufficient economic base not possible if only the five provinces where Muslims comprise a majority are incorporated.

- ◆ **The Irredenta Scheme** proposed by the University of the Philippines-Center for Integrative and Development Studies (UP-CIDS) Program on Peace, Conflict Resolution and Human Rights outlines two phases of autonomy anchored on the premise of a geographic, cultural and historically distinct Bangsamoro. The first phase will cover only three provinces and one sub-province which make up the base of the MNLF leadership and whose combined population will be 90 percent Moro. The second phase will allow for the gradual integration of the other areas in the Tripoli Agreement, starting with other Muslim-dominated provinces, followed by Christian and indigenous non-Muslim areas linked in various ways to the Bangsamoro system. No time frame is given for these phases. (See Annex B.)
- ◆ **The Transitional Scheme** proposed by peace activist and lawyer Soliman Santos, Jr., involves a transitory mechanism in the form of an administrative unit that will serve as a provisional government covering the original Tripoli Agreement area. The exercise of autonomy in these areas will vary in degree—from maximum and medium, to minimum or nominal and symbolic. Phase 2 will bring about a regular autonomous government which will be determined by a plebiscite. (See Annex C.)
- ◆ **The Southern Philippines Council for Peace and Development (SPCPD) Scheme**, likewise called for a transitory mechanism in the form of an executive body that will oversee the development projects in the areas covered by the Tripoli Agreement. Similarly, Phase 2 will bring about a regular autonomous government through a legislative act and a plebiscite. (See Annex D.)

Table 2 includes a section on *Corrective Features* to refer to items that were meant to respond to the aspirations of the Moro or Filipino Muslim populace. *Assuasive Features* are those that intended to allay the insecurities and protect the interests of the majority Christian community. Since the two constituencies have conflicts in interest arising from respective sectoral/group needs and divergent historical consciousness, a compromise agreement obviously needed both corrective and assuasive features to become mutually acceptable.



Table 2. Alternative Schemes

Scheme	Area Coverage of Autonomy & Rationale	Implementing Mechanism	Corrective Elements	Assuasive Elements
<p>Cluster Scheme by Sukarno Tanggol (published in a book in 1993)</p>	<p>8 provinces, 4 cities, 22 municipalities organized into clusters of contiguous units for a total of 5 such clusters</p> <p><i>Rationale</i> - The proposal approximates the mean between the realities of today and the Moro's historical legacy and their right to self-determination. Thus, it includes the five provinces where Moros are the majority as well as areas which are part of the historical Moro sovereignty "until foreign masters imposed their will on the unwilling Moro" although these may now be populated mostly by Christians. The total area is less than that covered in the TA, however.</p> <p>The Moro population in the areas identified in the minimum to maximum options (depending on clusters that may be ex/included) range from a significant 44.3% to 52%. (1990 census)</p>	<p><i>Rationale</i> - The proposal approximates the mean between the realities of today and the Moro's historical legacy and their right to self-determination. Thus, it includes the five provinces where Moros are the majority as well as areas which are part of the historical Moro sovereignty "until foreign masters imposed their will on the unwilling Moro" although these may now be populated mostly by Christians. The total area is less than that covered in the TA, however.</p> <p>The Moro population in the areas identified in the minimum to maximum options (depending on clusters that may be ex/included) range from a significant 44.3% to 52%. (1990 census)</p>	<p>Social justice and self-determination - True to autonomy aspirations of the Tripoli Agreement</p> <p>Proposal has a high responsiveness and medium implementability and effectiveness - has sufficient economic base and fiscal powers possible with economies of scale (not possible with only the five provinces, which are also the poorest provinces in the country).</p>	<p>Proposal provides for equitable representation of non-Muslims in the Regional Legislative Assembly; grants sub-autonomy powers to LGUs (more than what has been granted in the Local Government Code); does not apply Shariah Courts to non-Muslims; national defense force remains under the command of the Armed Forces of the Philippines.</p>

TA - Tripoli Agreement  
 LGUs - local government units

Table 2. *Alternative Schemes (continued)*

Scheme	Area Coverage of Autonomy & Rationale	Implementing Mechanism	Corrective Elements	Assuasive Elements
<p><i>Irredenta Scheme</i></p> <p>by the UP-C I D S Mindanao Studies Program and Peace, Conflict Resolution &amp; Human Rights Program</p> <p>(submitted as a confidential document to the GRP and the MNLF panels on 30 August 1995)</p>	<p><u>Two Phases:</u></p> <p>Phase 1- to cover 3 provinces and one sub-province that comprise the traditional Sulu Sultanate (Basilan, Sulu, Tawi-tawi, Southern Palawan) or the Tausug-Sama ancestral domain.</p> <p><i>Rationale</i> - The area is naturally separated and historically distinct from the rest of Mindanao; is the traditional center of Muslim-based political movements and leaders, particularly the MNLF; / 90% Moro population.</p> <p>Phase 2 (Bangsamoro Irredenta) - gradual integration of other areas covered in the Tripoli Agreement and which form part of Bangsamoro irredentism. Start first with Maguindanao and Lanao del Sur (including Marawi and Cotabato (cities); followed by the gravitation of other indigenous non-Muslim groups in a system of interconnected tribal units; and finally, a loose network of Christian areas linked in varying ways to the Bangsamoro system.</p> <p><i>Rationale</i> - more manageable and less conflictive.</p>	<p>Persuasive, peaceful and democratic means.</p> <p>Integration of other areas to follow only when Phase 1 shows success. No definite time frame. (Also, no precise implementing mechanism proffered.)</p>	<p>Historico-cultural perspective departs from a rigid legal framework in order to satisfy Muslim aspiration and identity according to the Koran and Hadith.</p> <p>Avoids need for plebiscite as well as opposition of non-Muslim groups while providing opportunity for Muslims to prove their governance capability.</p>	<p>Gradual approach is based on willingness of non-Muslims to be integrated into the B a n g s a m o r o Irredenta.</p>

Table 2. Alternative Schemes (continued)

Scheme	Area Coverage of Autonomy & Rationale	Implementing Mechanism	Corrective Elements	Assuasive Elements
<p>Transitional Scheme by Soliman Santos, Jr. (proposal dated 14 October 1985)</p>	<p><u>Two Phases</u> (From an administrative to a political unit):</p> <p>Phase 1 - Putting up of an administrative unit that will serve as a provisional government covering the original TA areas. The exercise of autonomy in these areas will, however, vary in degree — maximum (full), medium, and minimum (nominal and symbolic). Tanggol's Cluster scheme may be used to assign the degree.</p> <p>Phase 2 - Regular government/political unit the area of which will be determined through a plebiscite.</p> <p><i>Rationale</i> - Proposal upholds Tanggol's rationale but provides the advantage of being faithful to the TA's coverage, and of working within existing political subdivisions (thus avoiding need for more legislation on political resubdivisions). Also, nothing in the Constitution says that a plebiscite comes first before the establishment of an autonomous government; thus it can be held after. Also, the constitutional provisions on peace as found in the Preamble ("regime of peace"), Art. II, Sec. 2 ("the Philippines renounces war"), and Art. II, Sec. 5 (police power for peace and order) justifies "extraordinary" solution.</p>	<p>Phase 1 - Legislative act creating an administrative unit that will be allowed to prove itself for a reasonable period of time.</p> <p>Phase 2 - Plebiscite and constitutional amendment or legislation forming the regular government of the Moro autonomous region.</p>	<p>Provides maximum autonomy to the homeland of the three major Moro ethnolinguistic groups—Tausug-Sama, Maranao and Maguin-danao.</p> <p>Provides the provisional government with the best possible choice in terms of area and powers to prove the viability of autonomy.</p>	<p>Categories provide for lesser autonomy in areas with Christian majority population. Minimum autonomy may mean contributing a reasonable percentage of revenues from mines &amp; minerals to the autonomous government. Or, autonomy within autonomy — within the area of autonomy, there can be smaller autonomies, e.g., autonomy of local governments as provided for in the Local Government Code and of indigenous peoples around their ancestral domain.</p>

Table 2. Alternative Schemes (continued)

Scheme	Area Coverage of Autonomy & Rationale	Implementing Mechanism	Corrective Elements	Assuasive Elements
<p>SPCPD <i>S c h e m e</i> consolidated by Alexander P. Aguirre based on drafts by him, Deputy Speaker Simeon Datumanong and Rep. Gregorio Andolana; and consultations with various groups in Mindanao 5th draft dated 9 May 1996 (adopted substantially by the GRP-MNLF Peace Agreement in September 1996)</p>	<p><u>Two Phases:</u></p> <p>Phase 1 - Creation of a Southern Philippines Commission [Council, in final Agreement] on Peace and Development, an executive body that shall oversee the implementation of development projects in the areas covered by the TA. Powers and functions shall be merely derivative and extension of the powers of the President.</p> <p>Phase 2 - Within 2 [in final Agreement, 3] years, the establishment of an autonomous region and government, the coverage of which will be based on plebiscite results.</p> <p><i>Rationale</i> - The proposed Commission is plainly administrative in nature, not a separate juridical entity. Thus, it will not violate the required constitutional procedure of a plebiscite while at the same time meets the TA provisions.</p>	<p>Phase 1 - Executive order.</p> <p>Phase 2 - Constitutional amendment to the Organic Act for Muslim Mindanao and plebiscite.</p>	<p>Collapse of peace talks will lead to open conflict and bring untold sufferings to innocent civilians in Mindanao and hamper economic development in Mindanao and the whole country as well.</p>	<p>The existence and structure of LGUs in the area shall not be affected, and their powers and functions not diminished or prejudiced by the creation of the transitory structures.</p>

LGUs - local government units

## *Insights*

“Time Series” Approach. The creativity of the more recent proposals (Irredenta, Transitional and SPCPD) lies in their use of the “time series” approach.

The time series approach provided the advantage of passing through a transitory stage that was more easily implementable—such as an administrative unit put up by executive fiat (Transitional and SPCPD Schemes), without need for the constitutionally mandated plebiscite; or a territorial coverage that was 90 percent Muslim and so no opposition was expected (Irredenta’s Sulu Sultanate).

The approach also provided a trial period wherein the MNLF can prove its mettle, or where such an arrangement can be proven to be more beneficial to all especially in terms of economic upliftment. It also serves as apprenticeship, since it is not easy to transform a guerrilla force into an effective government. The MNLF is especially vulnerable on this count. They had no program of governance when the Council was put into effect, and not enough professionally trained personnel, having invested most of its resources in warfare.

The time series approach made it possible for the MNLF to effectively accept the constitutional need for a plebiscite (under Phase 2 of the Transitional and SPCPD Schemes), a requirement it totally opposed in past negotiations.

This element is not found in the Tripoli Agreement, nor in the Marcos and Aquino and the Cluster autonomy schemes. These earlier schemes called for a single, finished product that in the cases of the Marcos and Aquino schemes, were delimited by constitutional processes and/or lack of political will. That was why Tanggol practically stated that his scheme would be possible only under a strong government, particularly an authoritarian regime. The Tripoli Agreement also assumed that situation, having been forged during the peak years of Marcos’s martial law regime.

Creative and Liberal Interpretation of the Law. In designing an alternative scheme, there were clear efforts not to be constrained by a rigid legal framework. As the UP-CIDS (Irredenta Scheme) wrote: “(T)he key lies in identifying points of flexibility or, where none are perceived to exist, in liberally or even creatively interpreting agreements on *other than* legal bases. Only after some basic understanding is achieved by the two parties can legal measures be taken.” Had the government stuck to a strict implementation of the law, it would have had no other recourse but to call off talks.

However, in the end, there would be need to reconcile alternative mechanisms with the legalities. The SPCPD was in fact challenged in a petition lodged at the Philippine Supreme Court. The Santos proposal for a provisional government was debated in the newspapers between him and Joaquin Bernas, S.J., constitutionalist and adviser of former President Aquino. Bernas argued that a provisional government effectively replaces existing local governments. This, Bernas said, cannot be done without legislative action followed by a plebiscite.<sup>10</sup>

The final solution to the legal quandary lay in the fact that the SPCPD was a mere body under the Executive, whose powers and functions (to plan for, coordinate, oversee and cause the implementation of peace and development projects and programs in the area) are derivative of the President. The legal basis for this, pro-SPCPD government spokespersons argued, is Article XX, Section 14 of the Constitution which enjoins the President to "provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from nongovernmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate economic and social growth and development of the units in the region."<sup>11</sup>

Even then, not all were convinced. Bernas wrote that the SPCPD is not the regional development council envisioned in the Constitution.<sup>12</sup> The emotional response to the scheme also engendered exaggerated interpretations of its content. A resolution passed by the City Council of Iligan, a Christian-dominated mixed agricultural-industrial city that falls under the SPCPD, decried the agreement as "patently unfair and unjust to the overwhelming majority of inhabitants in the affected area...The proposed governmental body ... is not an administrative machinery as it is being made to appear. It is an interim government..."<sup>13</sup>

The legal entanglements were eventually overtaken by a new twist. Persuaded by President Ramos and his cohorts, Misuari ran for governor in the scheduled ARMM elections. Running unopposed and with the backing of the government party machinery, Misuari was declared governor. To skirt a legal prohibition for elective officials to sit in any other public office during his tenure<sup>14</sup>, the GRP-MNLF Agreement was simply amended to make the ARMM governor the ex-officio chairperson of the SPCPD. Thus the former revolutionary leader is now the ARMM governor and SPCPD chair.

This case study shows that a flexible approach, creative legal solutions and the strong political will of the executive could overcome legal infirmities.

Responsiveness to the Public's Primordial Needs and Fears. While the negotiating stance and solutions arrived at in the GRP-MNLF negotiation were largely guided by rationality and pragmatism on both sides, the final solution nonetheless addressed the primordial needs and fears of the differing constituencies.

What were these primordial needs and fears? Purposive small-scale field interviews conducted in affected areas in Mindanao by a UP team, this author included, at the height of the national uproar against the SPCPD, showed that among Christians, fear of Muslim domination and prejudices against and distrust of Muslims, account for the largely negative acceptance of the SPCPD among Christians. A usual derogatory remark was that "if you give the Muslims one finger, they will soon ask for your whole hand."<sup>15</sup> Muslims are also largely perceived to be prone to violence.

Among non-Tausug Muslims, there was also fear that the Tausug would dominate them. One respondent was concerned that her job in a government agency would be taken over by a Tausug. Many more Muslims, on the other hand, saw the Agreement as a scaled-down version of their real demand of full independence and resented the vehement objections raised by many Christians. Others complained that the SPCPD Scheme gave too little to the Muslims and thus rejected the Agreement.<sup>16</sup>

On the other hand, support for the Agreement among Muslims and Christians, notably the Catholic and Protestant churches (critical support stance), on the other hand, was anchored on an appreciation of the historical basis of the social injustice and oppression suffered by the Muslim minority.

This recognition of "primordial fears" made the alternative schemes, including the final Agreement, superior to earlier autonomy laws enacted. I have called these responses the corrective and assuasive features, without which it would be hard to convince the public to support the Agreement, even if the negotiating parties themselves have opted for one. The parties, after all, were in many ways, answerable to their respective constituencies.

Examples of the assuasive features are the non-application of Shariah to non-Muslims; the application of degrees of autonomy depending on the

demographic profile of the province or municipality; the continuation of the local governments under national laws.

From the signing of the Agreement to the issuance of Executive Order No. 371 creating the SPCPD, more amendments were incorporated to assuage these fears. Notably, all references to the *Darul Islam* as the SPCPD chair's religious advisory council—objected to on the grounds of separation of church and state and fear of Islamic imposition—were removed. The 44 of 55 seats in the Consultative Assembly originally assigned to the MNLF gave way to the more general provision that these seats will be opened to various sectors, including recommendees of nongovernment organizations and people's organizations.<sup>17</sup>

On the other hand, the drawing up of specific details of the integration of MNLF soldiers into the Armed Forces of the Philippines and the Philippine National Police were kept at bay prior to the settlement of the controversy.

### ***Conclusion***

In this case study, three features of the alternative autonomy schemes presented, from among which the final Agreement drew inspiration, were identified: the time series approach, creative and liberal interpretation of the law, and responsiveness to the public's primordial needs and fears. These features allowed for a mutually acceptable solution not only between the two parties concerned but also to the general public.

While rational and pragmatic positioning (defined by the respective and common contexts of the parties) provided the generally favorable condition to arrive at a negotiated settlement, these were not sufficient to work out a final settlement. Indeed, rationality and pragmatism tend to be defined by the "balance of power" or the parties' relative strength vis-à-vis each other according to their respective perceptions. Such a perspective could end up in one or both parties seeking to dominate the outcome in the belief that strength is on its side.

On the other hand, lack of realism would equally weaken a proffered formula for autonomy. The Irredenta Scheme was, notably, anchored solely on historico-cultural grounds and suffered from this lack of *realpolitik*. It failed to take into account the fact that the Sulu Sultanate that would make up its proposed Phase 1 suffered from economic disadvantages—which is why the MNLF viewed the retention of the 13 (14) provinces as one autonomous unit as necessary for



economic viability. The scope of the irredentist Sulu Sultanate was, moreover, smaller in coverage than what already was instituted under the ARMM. It also had no concrete mechanism for implementing its proposed phases.

While these three general features made acceptable an alternative scheme, certainly other factors were at work. As mentioned in the beginning, the economic and diplomatic imperatives imposed on the nation-state and on the revolutionary movement by the forces of globalization and economic growth in the region were contributory factors. Interestingly, two factors cited by Spence<sup>18</sup> as crucial in the peaceful resolution of ethnic strife in India and South Africa were also present in the Philippine case. One is a skillful and courageous leadership working toward accommodation. To the President's credit, he stood pat on his interpretation of the law and defended the peace agreement amid the widespread opposition from Mindanao politicians and Christian folk who staged rallies and threatened to form militia groups.

The other factor is a strong tradition of statehood. Nation-building, says Spence is much easier when there is a long established tradition of government and law enforcement. In the Philippine case, Spanish colonialism had imposed a state on these islands way back in the 16th to the 19th century, although not very successfully in the Southern parts.<sup>19</sup>

That the key to transforming the armed engagement between the MNLF and the GRP into a partnership was achieved through a political settlement lends credence to de Shalit's assertion that national self-determination is a political rather than a cultural demand—that is, it calls for “the state to take action, intervene and change the political arrangements.”<sup>20</sup> This is because the demand is to have control over the public aspects of one's existence which may be achieved only through participation in autonomous political institutions which have often been denied ethnic minorities.

## Notes

<sup>1</sup> 72, 3 (1996) 439.

<sup>2</sup> National Statistics Office. *1994 Philippine Yearbook*.

<sup>3</sup> George, *ibid*.

<sup>4</sup> Brown 1994:xvii.

<sup>5</sup> Agbayani 1987.

<sup>6</sup> Coronel Ferrer 1997:200.

<sup>7</sup> Cipanás Statement of Understanding, paragraph 14.

<sup>8</sup> Art. X, Sec. 18, 1987 Constitution.

<sup>9</sup> The historical justice principle stems from the perceived need to rectify the centuries of oppression suffered by the Moro peoples as a result of being forcibly incorporated in the Christianized colonial and subsequent independent Philippine state despite the sovereignty enjoyed by their sultanates prior to colonization. In the 20<sup>th</sup> century, Mindanao was proclaimed a resettlement area and opened up to foreign agricultural investments leading to the economic, political and cultural marginalization of the indigenous populace.

<sup>10</sup> *Today*, 17 April 1996.

<sup>11</sup> Cited in Muyot 1997:38-39.

<sup>12</sup> *Ibid*.

<sup>13</sup> Resolution No. 699, s. 1996 "Interposing Vehement Opposition/Objections to the Points of Consensus of the 8th GRP-MNLF Mixed Committee Meeting with the Participation of the OIC Ministerial Committee of Six Held in Davao City on June 21-23, 1996." *Tanggapan ng Sanggunian Panlungsod, Lungsod ng Iligan*. Reprinted in UP-CIDS Program on Peace, Conflict Resolution and Human Rights, and the Mindanao Studies Program 1997:115.

<sup>14</sup> Art. IXB, Sec. 7, 1987 Constitution.

<sup>15</sup> See "Mapping of Positions on the SPCPD of Various Sectors in Selected Mindanao Municipalities" in UP-CIDS Program on Peace, Conflict Resolution and Human Rights and Mindanao Studies Program, pp. 19-30.

<sup>16</sup> *Ibid*.

<sup>17</sup> Nongovernment organizations and people's organizations.

<sup>18</sup> *Ibid*, pp. 442-443.

<sup>19</sup> The Sulu Sultanate had been existent even earlier, in the mid-15th century. A 1908 account on the archipelago states that Manila and Cebu were small and insignificant settlements compared to the then popular and thriving international port of Jolo (George 1980).

<sup>20</sup> 1996:910.

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*Cluster Approach by Sukarno D. Tanggol*

**Proposed Coverage of Muslim Autonomous Region**

Option	Areas Covered	1990 Total Population	Muslim Population*	Percentage of Muslim Population
Option 3	8 Provinces: Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sultan Kudarat, Basilan, Sulu and Tawi-Tawi plus 6 Clusters: Balabac, Sirawai, Alicia, Labangan, Kidapawan and Saranggani	5,132,847	2,567,062	50
Option 3-A (Minimum Option)	All provinces and clusters in Option 3 except the Kidapawan Cluster	4,930,832	2,563,060	52
Option 3-B (Maximum Option)	All provinces and clusters mentioned in Option 3 plus the Ipil, Pagadian and Alabel Clusters	5,877,908	2,601,746	44.3
Option 3-C	All areas in Option 3-A plus the Ipil Cluster	5,090,784	2,572,873	50.54
Option 3-D	All areas of Option 3 plus the Ipil Cluster	5,292,799	2,576,875	48.7

\*Population data from 1990 Household Population, National Statistics Office.

## Cluster Composition

Cluster	Municipalities Covered	Total Population	Muslim Population	Range/Average of % Muslim Population
Alicia	Alicia, Mabuhay, Olutanga, Tulusan, Payao, Malangas (Zamboanga Sur)	117,673	24,392 20.7%	12.2% - 32.2% (range) 22.7% (ave.)
Sirawai	Sirawai, Siocon and Sibuco (Zamboanga Norte); Tungawan (Zamboanga Sur); Zamboanga City	534,056	145,863 27.3%	16.7% - 79% 39.9%
Balabac	Balabac, Bataraza, Rizal and Brooke's Point (Palawan)	123,617	33,323 30%	14.9% - 75%
Labangan	Labangan and Tukuran (Zamboanga del Sur)	56,043	7,775 13.9%	2.4% - 24.5%
Ipil (connects Sirawai & Alicia)	Ipil, Roseller Lim, Naga, Kabasalan, Siay (Zamboanga del Sur)	159,952	9,813 6.1%	
Pagadian (provides land corridor between Lanao & Cotabato & southern parts)	Aurora, Buug, Dimataling, Dinas, Dumalinao, Kuamilarang, Lapuyan, San Migueel, San Pablo, Tabina, Lakewood, Imelda, Pitogo, Diplahan, Margosatubig, V. Sagun; plus Pagadian City (all of Zamboanga del Sur)	486,414	22,675 4.7%	
Kidapawan	Kidapawan, Makilala, Magpet and Antipas (North Cotabato)	202,015	4,002 2.5%	
Saranggani*	Maitum, Kiamba, Maasim, Magpet and Antipas (North Cotabato)	199,325	26,082 13%	
Alabel	Alabel and Malungon (South Cotabato)	98,695	2,196 2.2%	0.5% - 4.7%

\* This cluster plus the Alabel Cluster, minus Saranggani Island, constitute the new province of Saranggani.

**Tanggol's Evaluation of His Proposal vis-à-vis RA 6734  
Aquino's Autonomous Region of Muslim Mindanao (ARMM)  
and the MNLF's Proposal (based on the Tripoli Agreement)**

Criteria	Indicators	RA 6734	MNLF	SDT/Cluster
Effectiveness	Extent of political powers	2	5	4
	Extent of fiscal powers	1	5	4
	Extent of administrative powers	3	5	4
	<i>Subtotal</i>	6	15	12
Responsiveness	Area of autonomy	2	2	4
	Ancestral domain	1	1	5
	Shariah courts	2	5	5
	National aid	2	1	5
	<i>Subtotal</i>	7	9	19
Implementability	Legal feasibility	5	2	3
	Financial feasibility	5	3	2
	Administrative feasibility	4	3	3
	Political feasibility	5	1	2
	Cultural feasibility	2	3	4
	<i>Subtotal</i>	21	12	14
	<b>TOTAL</b>	<b>34</b>	<b>36</b>	<b>45</b>

**Note:** In the text, Tanggol explains why he gave the corresponding points, with the higher points reflecting better potential or larger scope.

**Source:** These tables were based on the text and tables of Tanggol 1993:279-286; 226.

## **Bangsa Moro Irredenta**

### **by the UP Center for Integrative and Development Studies**

#### **Initial Areas of Bangsamoro Autonomy**

- n Historical Sulu Sultanate: Basilan, Sulu, Tawi-Tawi, Southern Palawan (with the exception of Sabah, now part of Malaysia)

#### **Rationale:**

- n The Sulu Archipelago is naturally separated and historically distinct from the rest of Mindanao. This area is the Tausug-Sama domain.
- n The area is predominantly Muslim (about 90%) with a cohesive cultural tradition.
- n The area has long been the center of Muslim-based political movements and governance and the base of the present-day MNLF thought and structure. No other group has contested these islands.

#### **Larger Bangsamoro Homeland**

The process of realizing the irredentist goal could take on the following pattern of integration:

1. Subsequent organization of the predominantly Muslim provinces of Maguindanao and Lanao del Sur, and the cities of Marawi and Cotabato, into an Islamic model perhaps slightly different from that of Sulu but likely to satisfy the preferences of the Maguindanao and the Maranao societies;
2. Probable gravitation of the Lumad ethnic communities into a system of interconnected tribal units according to their preferred system and aspirations;
3. Loose network of Christian provinces and cities linked with the Bangsamoro system in accordance with mutually agreed upon mechanisms based on justice and equality.

#### **Means**

- n Persuasive, peaceful and democratic.
- n Possible if the MNLF succeeds in the initial area of autonomy and palpably demonstrates an openness to other models of governance suited to the needs and aspirations of other groups in the region.

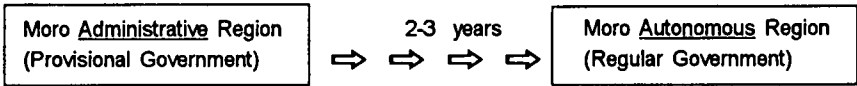
#### **Time Frame**

- n Depends upon the pace and organizational capacity of the MNLF.

*Source:* "The Bangsa Moro Homeland: An Option for the GRP-MNLF Talks" by the UP-CIDS Mindanao Studies Program and the Peace, Conflict Resolution and Human Rights Program, 30 August 1995.



**Transitional Scheme by Atty. Soliman M. Santos, Jr.**



Administrative Autonomy

- n Decentralization of administration
- n Central Supervision
- n Accountable to center
- n Limited structure (usually executive)
  
- n Appointive leaders
- n No separate juridical personality

Preparatory & Transitory

- n Prepares for elections of the legislative assembly
- n Administers areas in accordance with the Agreement
- n Regional development council-type of role

**Degrees of Autonomy**

Rationale - To address the present population distribution in the 13 provinces and allay fears of Muslim domination

Concept - Provide for degrees of autonomy based on population categories of the 13 provinces (with variations)

**Variation 5+5+3**

CATEGORIES	AREAS OF AUTONOMY	DEGREES OF AUTONOMY
Category 1 (70-99% Muslim per province)	5 Provinces: Sulu, Maguindanao, Lanao Sur, Tawi-Tawi, Basilan 2 Cities: Marawi, Cotabato	Maximum Autonomy full implementation of the entire final Agreement Medium Autonomy

**Variation 5+5+3 (continued)**

CATEGORIES	AREAS OF AUTONOMY	DEGREES OF AUTONOMY
Category 2 (4-35% Muslims)	5 provinces: Sultan Kudarat, North Cotabato, Lanao Norte, Zamboanga del Sur, Zamboanga del Norte  5 Cities: Iligan, Zamboanga, Pagadian, Dapitan, Dipolog	· application of less than the full Agreement, or · application only to Muslim clusters
Category 3 (2-5% Muslims)	3 Provinces: South Cotabato, Davao Sur, Palawan  2 Cities: General Santos, Puerto Princesa	Minimum Autonomy - nominal or symbolic autonomy, at least contribution of a reasonable percentage from revenues

**Variation 8+5**

CATEGORIES	AREAS OF AUTONOMY	DEGREES OF AUTONOMY
Category 1 (aggregate Muslim population of more than 60%)	8 Provinces: Sulu, Maguindanao, Lanao Sur, Tawi-Tawi, Basilan, Sultan Kudarat, North Cotabato, Lanao Norte  3 Cities: Marawi, Cotabato, Iligan	Full Autonomy
Category 2 (rest of the 13 provinces)	5 Provinces: Zamboanga del Sur, Zamboanga del Norte, South Cotabato, Davao Sur, Palawan  6 Cities: Zamboanga, Pagadian, Dapitan, Dipolog, Gen. Santos, Puerto Princesa	Partial Autonomy

## **Advantages of Degrees of Autonomy**

1. "Full implementation of the Tripoli Agreement in letter and spirit" – e.g., the 13 (now 14) provinces as compromise political solution.
2. Addresses present population distribution and fears of Muslim domination.
3. Sufficient spatial viability and economic base.
4. Works with existing political subdivisions without the complications of creating new ones.
5. Includes all 13 Moro ethnic groups (not just the Tausugs) but allowing, even encouraging, coexistence with Christians, Lumads and other Mindanaoans/Filipinos.

**Source:** "GRP-MNLF Talks, Towards a Transitional Implementing Mechanism (& More)" by Atty. Soliman Santos, Jr. Prepared by the Gaston Z. Ortigas Peace Institute, 4 May 1996.

**Southern Philippines Council for Peace  
and Development Schemes  
(as revised in the GRP-MNLF Peace Agreement)**

**Phase 1: Transitional Phase**

**Time Frame: 3 years**

**Features:**

- ❖ The Southern Philippines Zone of Peace and Development (SZOPAD), the Southern Philippines Council for Peace and Development (SPCPD), and the Consultative Assembly will be established, covering the 14 provinces and all the cities stipulated in the Tripoli Agreement.
- ❖ All the points agreed upon in the 1994 and 1995 Interim Agreements that do not require legislative action shall be acted upon.
- ❖ The process of the joining in of MNLF elements with the Armed Forces, and with the PNP as part of the regular police recruitment program, will start.
- ❖ A bill to amend or repeal the Organic Act creating the Autonomous Region of Muslim Mindanao (RA 6734 or the ARMM law) shall be initiated.

**Functions of the SPCPD:**

- ❖ To take charge in promoting, monitoring and coordinating the improvement of peace and order of the area;
- ❖ To focus on peace and development efforts more particularly in the depressed areas and cause the implementation of peace and development projects;
- ❖ To provide support to local government units as necessary;
- ❖ To exercise such other powers and functions necessary for the effective implementation of its mandate as may be delegated by the President;
- ❖ To assist in the preparations for the holding of elections, referenda or plebiscite and people's initiative in the area as may be deputized by the Commission on Elections upon recommendation by the President;
- ❖ To cause the creation of such offices or instrumentalities as shall be necessary for the effective and efficient administration of the affairs of the area. There shall be approval from the Office of the President for budgetary purposes.

## **Phase 2: The New Regional Autonomous Government**

### **Features:**

- ❖ The Organic Act creating the Autonomous Region of Muslim Mindanao will be amended and repealed by Congress; in case Congress repeals the ARMM law, a new law on autonomy will be enacted;
- ❖ A plebiscite on the amended or new law will be held in the 14 provinces and cities under the SPCPD for ratification by the citizens within two years (in 1998) after the creation of the SPCPD;
- ❖ A new Regional Autonomous Government with an Executive Council, Legislative Assembly, Administrative System and Representation in the National Government will be established in the areas that voted for inclusion.
- ❖ Special Regional Security Forces for the region shall be established.

*Source:* GRP-MNLF 1996 (Final) Peace Agreement.

