

A Time for Reckoning for the Bangsamoro Struggle¹

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Can we reverse the legitimacy deficit of an imported state by recognizing its renewed claim for legitimacy grounded on its role today as provider of security on its territory? Conventional diplomatic technique proves inept where nonstate actors carry out partly the security function or contest the right of the state to uphold and keep it. How did the Bangsamoro come to play, albeit partly, a security function within what is claimed to be Philippine territory?

To recognize diversity in the United States Institute for Peace (USIP) Philippine Facilitation Project is to draw a political matrix of diversities, wherein you rediscover that the Moros are still here to endure. The spirit of past and current generations is bound to the Moro homeland that was once a partner in covenant with the United States of America. In America's dealings with the unincorporated territory of the Philippine Islands, the Moro Question constituted a major factor for Filipino full independence. This Question remains to be of interest today because it still puzzles political identity that attracts loyalties in domestic politics and in the articulations of spatiotemporal relations.

I take this liberty to articulate what we, the Bangsamoro people today, assert as a temporal depth embedded in territorial continuum between our present societies and our territorial ancestors. There is certainly nothing pre-modern in the recognition of kinships between current members of the nation and the members of those earlier societies that framed the context of homeland, ancestral domain, and territory as they relate the nation-a-forming to history.² This introductory paper sketches certain nonlegal factors that engross our energies as stakeholders in mainland Mindanao and the Island Provinces of Basilan, Tawi-Tawi, and Sulu to focus on a twenty-first century solution to the Bangsamoro problem.

Yet it is a continuing educative process to stress the centrality of legal issues and empirical consideration. Quite a few commentators are likely to take our positions as classroom thoughts; yet many more will believe what is right in shaping public opinions and reactions. Serious grievances are still reckoned in the present reality on matters of governance (and issues dating as far back as when the Americans first encountered the Moros at turn of the last century). America imposed on the Moros a unitary state structure—exhibiting a condition of colonizability—running in cycles of abolition of successive government agencies dealing with Muslim affairs. Originally conceived in rigidity of a policy of benevolent assimilation, it is in fact, a euphemistic language for democracy's referent: Civilizing ends.

In the first place, fundamental institutions of political life (nation, state, government, citizenship) are justificatory concepts. A democratic conception of citizenship contributes to the sense of the nation as a political community. Related to this is the discovery of discourses (in writings, petitions, declaration of Moro leaders) contesting several assumptions where the foundation of earned sovereign authority resides. In doing so, the US discursive erasure of a unique Muslim polity signified in a historic Bangsamoro sovereign space was at odds with transforming nondemocratic states, but only for an interim period. Current USIP forum on Islam and democracy focuses on what is here and now. But there is very little guidance about constitutional crisis where, for instance, the logic of representation breaks down and there arises a question of legitimacy. Most are lost perhaps on abstract idioms surrounding the conceptual ambiguity in clarifying international relations and the intertextual journey involved in analysis.

Understanding the causal sequence

There is much to recommend about the Philippines being a case of shuttered democracy – to use a catch phrase; and so it is. This trajectory of the republic complicates the understanding of the Filipino nation in history to stabilize the meaning of a republican state. There is nonetheless a historically unique appeal to USIP explanatory argument about the true amity and commerce between America and the Moros of the Sulu archipelago, Mindanao, and its adjacent islands including Palawan.

Dr. Jacob G. Schurman, Chairman of the First Philippine Commission, was the first American official to land in Sulu at the turn of the last century. Addressing the Yale Phi Beta Kappa Society once back in America, he proposed a scheme of governance adapted to “the southern tier of islands” resembling that one put in operation in the Malay peninsula. One can understand American intervention as a policy tool in organizing earned sovereignty. Schurman's very own words is a good quote:

“Any one who has studied the wonderful history of the Malay archipelago will find his promise fulfilled. We can make agreements with the chieftains of the southern tier, by which we shall take charge of the custom houses, and they will accept advisors who will bring to bear upon them not the power of the sword, but the American sense of justice, the American sense of government, and capacity for ushering in prosperity.”

This entails looking back in search for democratic closure to the ambiguity that so much characterized later American reductive policy of regime change via domination/intervention dichotomy—without Moro plebiscitary consent—bearing upon their distinct domestic community. As to political correctness, the Bangsamoro people claim supremacy over the veto power of settlers in Mindanao that spawn a land grab politics of domination to spin further Moro peripheral status in their own homeland.

As USIP Executive Director Eugene Martin has often explained, our American-Moro relations started on two fronts: “One with the War Department and the other with the Peace Department.” To date, the USIP still faces an unfinished agenda that has become a conceptual point of reference. This is so because the causal sequence projected in official lines of Washington thinking reminds us at once that America is here again in Moro homeland in the aftermath of the war on terror. For who decides to associate *jihad*³ with terrorist bond? Of course, your mandate is at once clear: To help expedite the peace process in Mindanao. Arguing this, we know how peace matters:

1. Consider how recent media reports on USIP workshops on the Mindanao peace process that provide both educative and corrective learning curves for the media, military, and national police.

Almost all media story is about conflict. Thus contemporaneous temptations to report America's involvement solely in terms of security interest that step up military actions against a radicalized Muslim group feeds on the lack of solid information and profiling, if not faulty intelligence. Prejudice and bias substitute for the absence of sufficient background materials to the Manila-centric media reporting of the Mindanao conflict. This brings about a cycle of political violence formulated in the military idiom of pacification complex that, in turn, is tied to defense spending devoid of institution building for a just peace. Meanwhile the technology of political control continues to erode humanitarian law and basic human rights.

2. Consider next continuing efforts to bring different USIP experts together that can yield a reasoned exercise of the virtue of civility in government peace talks plus lessons learned in conflict resolutions.

All deliberate negotiation has a framework. It is commendable that USIP's initial facilitation program runs parallel to the ongoing formal peace negotiation between the Moro Islamic Liberation Front (MILF) and the Government of the Philippines (GRP). By other means, the USIP has provided access to both Peace Panels and their Technical Working Groups (TWG) in preparing for research—as we call for new formulas to solve the problem of Bangsamoro people via negotiated political settlement of the Mindanao conflict. Demonstrably, the positions we describe here are predicated on an expectation that flexibility of parties to the ongoing peace process can lead by itself to a just and lasting negotiated comprehensive political solution.

3. Consider then how the interventionist component of USIP program elsewhere intersects between the complexity and the compatibility of Islam and democracy, which diverts the conflict to the outside.

Archaic limits on sovereignty do not accord with recent events in the interstices of democracy. Mindanao is linked as a frontier combining foreign policy rhetoric with justification for global antiterrorism measures to apply state coercive diplomacy. State practice of security creates identity by otherness and enmity. Warmongering faculty of the Presidency and Cabinet opens up the old antagonisms

that put into precarious condition the Christian Filipino capability to govern the Bangsamoro people. But they cannot admit to harboring Islamophobia. With the continuing significance of Islam as a factor in such circumstances, the task of making this world endure for democracy becomes complicated, unless complemented by traditional alternative dispute resolution.

4. Consider finally a new doctrine for USIP to help shape the practice of *ad hoc* intervention at certain diplomatic stage to determine the permanent status of the Bangsamoro territory not as a legal question but as a political solution.

Current political trusteeship is a pragmatic template traced to the mandate system. From being a United States unincorporated territory, the evolution of the Philippine Islands under American political tutelage into a postcolonial transition Commonwealth was designed to determine Filipino future status. Thus defined, the Wilsonian *telos* of political development is institutionalized democracy. If we follow the fundamental rules of statecraft, Moros were *de facto* characterized by treaty-based rights and not by status as minority sector or by any class affiliation. From this point on, whatever is uncertain about the Moro's prior claims now remains a stimulus likely to create *de jure* prospects for current transitional mechanisms to approach sovereignty-based conflict resolutions.

5. Consider at last a need to achieve the "Peace Department" role for USIP to mobilize international support even from a skeptical start to a high degree of outside proactive peacemaking initiatives translated into legitimacy.

Balancing between self-determination and sovereignty is the optimal method of ending conflicts. It is a hallmark of both international and internal legitimacy. It may well be that a coherent system of *ad hoc* intervention lurks around internal legitimacy for associative arrangements representing the premise of political stewardship in the preparation for the referendum that must decide the Bangsamoro permanent status. The South Sudan formula illustrates this Unity-with-Option modality as a result of workable arrangement under the Machakos Protocol.⁴ Its dominant considerations match those modern prescriptions for successful political trusteeship.

The specificity with which to exercise that Option of the Bangsamoro people, at least in part, is a legal concept. At the end point of the political process, the case for Mindanao exhibits overlapping criteria for international and internal legitimacy; not only in terms of prior Protocol between European nations, but also at the level of signification resulting from its claimed territoriality. That is, in international context, the Sulu dynastic state was *status quo ante* assured special status as a protectorate by treaty; whereas, the Magindanaw dynastic state was a proto-state model of bounded territorial community of custom (suzerainty) and law with an interpretative overlay from customary international norms. Given the exemplar, the Maranaw indigenous political institutions have their own actuality transformed into the political culture that was consolidating into polity-centered versions of rulership.

Quests for convergence of the nonlegal factors facilitate understanding of the MILF-GRP Peace Talks and the negotiation frameworks for future configurations in Mindanao. Subjection/integration, assimilation/aspiration, autonomy, and association: Such are the old grids to govern colonies. By this, political arguments for the Philippine Commonwealth cast the Moro polity/society as the problematic actor. For all its truncated evolution, there was a period of deep agitation in that this Government found itself face to face with the separatist Moro leaders and movements. The status quo in Mindanao has remained unacceptable and the unabated armed conflict could be described as a stalemate for a number of good reasons. It just might be that new directions suitably related to the natural political patterns and social forces in Mindanao could channel less than formalistic (e.g., American style) models of democracy.

Materials generated from workshops, focus group discussions, and fora, writeups and analyses, such as those of peace researchers of USIP, have contributed to the understanding of the peace process. Advocacies have become added features of transparency about the progress of MILF-GRP peace negotiation. Understanding being always partial, we have another causal sequence in the Government of Japan's decision to dispatch a development expert to the International Monitoring Team (IMT), along with the Japanese new initiatives in regard to the Mindanao Peace Process. The Malaysian-led IMT—including Brunei and Libya—have performed the ceasefire monitoring task since July 2003, whereas the Japanese development expert can now begin to play a lead role in socioeconomic monitoring.

Confronting reality in Mindanao

The centrality of the Bangsamoro homeland is intertwined with Bangsamoro identity as well as communal relationship to the land, the sea or lake, and the rest of the surrounding ancestral domains. With political ideology, *asubija*⁵ or group pride may signify formally entering the world's political life no longer via the backdoor, so to speak. It is this core value of holding on to their homeland that territorial claim is seen as central to the MILF diplomatic move for a negotiated political settlement.

Entrenching political structures and institutions

In sum, all outstanding commitments emanating from prior agreements are entrenching commitments to the incremental common denominator of permanent status. A time for reckoning commitment is upon us at this phase, as we take stock and move forward in the task of politics and diplomatic initiatives focused on self-determination. From 1997 to 2006, the GRP and MILF signed sixty-three agreements on various issues and concerns. Through the Government of Malaysia's facilitation, the MILF-GRP Peace Panels have reached twenty-five Consensus Points weaving together all four strands of Ancestral Domain: conceptual foundation, territory, governance, and resources.

Negotiations to resolve sovereignty-based conflict are unlikely to succeed without third party mediations where the centrality of the state as an important player in international relations is challenged. Third party mediation that prods the parties towards peace confidence building has impelled minimal transparency. Joint advocacies at this diplomatic stage that promote popular confidence and leadership capacity for aggregating interests have entered another level of awareness. Typically, transparency here is aimed to reduce the domestic level of public confusion that comes with change. In summation, I have presented the salient points:

1. *Clearly define what the struggle is about.*

The Bangsamoro struggle does not make the Filipino people at large the real enemy. Nevertheless, on a nationalist level, the historicity of ethnic assertions is irrelevant. What is our perception of the condition

of colonizability in Mindanao? With its colony of migrants/settlers, the Central Government acts as a *de*-nationalizing authority, stripping off and denying Moros their Bangsamoro identity. Fundamentally, it is their birthright to secure their identity and posterity. To entrench the Bangsamoro homeland as a territorial space, with freedom of choice for indigenous peoples, does shape identity. Without a governing base, the issue of indigenous claims is stillborn and simply belongs to the sphere of ancestral vernacularism.

The Bangsamoro people's struggle emanates from their identity claims and collective interests. This results from the movement for recognition of core ethnies⁶ and the role that mass mobilization by the intelligentsia plays in our people's struggle. The Bangsamoro vertical variant includes ethnies stranded between tradition and modernity who seek to resolve their own identity crises by reasserting the history and culture of their community. Divergent experience of the hispanized population does much to explain that Filipino nationality mingled with the creole elites who sought a separate collective destiny. The rest of the nation was transformed from vertical patterns of ethnies led by the intelligentsia who leapt over colonization to rediscover their ethnic heritage. Once we focus on the asymmetrical degree of interdependence, the question of vexed citizenship related to ancestral domain issues becomes relevant.

Coercion in the service of political objectives is a limited means because it does not truly relocate final authority to end in closure of grievances. Most importantly, any military adventurism is also political. Armed struggle is an extension of the means to redress serious and legitimate grievances; MILF military actions are not aimed at the country as a whole. Devolved function extending a type of internal security arrangement whereby the Bangsamoro juridical entity (BJE) is able to apply its own policies within the broad constraints of a basic law, and still be able to exercise its authority and prerogative within its jurisdiction, can take a range of forms.

2. *Firmly proffer a new modality to end conflicts.*

Modality to accord an organically functioning BJE with entrenched rights to exercise sovereign authority shared with the central authority is a step agreed to establish a system of life and governance suitable and

acceptable to the Bangsamoro people. There is consensus on this point. Convening of constitutional framers tasked to write the basic law of the BJE, the modalities of which is to be contained in the comprehensive compact, is a logical step; but the content will emerge only from final status negotiation.

Until restored to the Bangsamoro people, conflict-affected areas (CAAs) are undeniable reminders of unjust displacement and dispossession. But where restoration is no long possible, Government must take measures for adequate reparation. There is consensus on this, too. As a conceptual referent, CAAs are factored into development work and human security in Mindanao related to the Bangsamoro Development Agency (BDA).

Consensus is now arrived at to enter provisional arrangements to establish constructive structures and associative relationships that realign the core areas of autonomy, expanding it for this purpose, to resolve outstanding claims over the CAAs. The purpose is to delimit and delineate the territorial boundary lines marking the new zone of separation.

Reasonably sustaining wealth creation is a function of ownership/control of all natural wealth and resources of whatever kind which, under the jurisdiction of the BJE, can be subjects of sharing through economic cooperation agreement or arrangement. This is correlative to transfer of power provisions on financial control and revenue collection and the authority to create its own tax base, rates, and customs duties.

3. *Clearly define criteria for transfer power provisions.*

Associative arrangements to be embodied in a comprehensive compact establish the structure of governance with defined executive, legislative, and judicial powers and functions. Entrenchment empowers BJE to legislate and administer revenue-generating measures through taxation, public borrowings (foreign and domestic), licensing, and income from government investment. The consensus is arrived at without details.

Besides taxing powers, authority granted to BJE includes financial control for governmental accounting and auditing systems and standards suitable to BJE. Transfer of powers also provides for budgeting and allocation of funds for governmental functions, development, and public services. Effectiveness in delivery of basic government services

to create an economic environment of prosperity is a concrete means to attain legitimacy. There is a consensus on this point.

Typical areas maintained for institution building are civil service, electoral, financial and banking, education, legislation, legal, economic, police and internal security force, judicial system, and correctional institutions all necessary for developing a progressive Bangsamoro society. Judicial review mechanisms can exist in separations institutions to leave room for Shariah-based courts and banking system.

4. *Closely navigate with a timeframe for transition process.*

The transitory provision for establishing institution simultaneous with the transfer of governance to the BJE—prior to the determination of the final political status—is the mechanism for entrenchment. The transition period has the defined function to the framework agreements. The transition period officially ends with the proclamation of the referendum results from an electoral exercise internationally monitored by a third party. There is consensus on this procedural step.

By joint understanding, the term entrenchment means, for the purposes of giving effect to the transitory provision, the creation of a process of institution building to exercise shared sovereign authority over territory and defined functions of associative character prior to the determination of final status.

In order to reach the appropriate transitional mechanisms and other modalities for governance, the procedural steps include options, transitory process, sequence, and time periods ended by the referendum results. There has to be popular consultation leading to a referendum as the mode to determine the future political status of the Bangsamoro people. The mechanism is to be embodied in the comprehensive compact, and it is conducted at the end of the transition process.

A multinational third party is envisioned to monitor the actual implementation of the comprehensive compact and to supervise the review of the transitory mechanism to introduce and support changes. This will provide continuity for the IMT now in place in Mindanao. There is consensus on this unarmed and consensual type of preventive peacekeeping model.

Defining structures and triggers for devolution

The optimal method for legitimacy bid under the republican state and the international community implicates each other as opposing domains of political reality that corresponds to the dual face of sovereignty. Thus, preparation of the domestic population for self-government was conveyed to all Mandates. That mandate earned sovereignty that, as such, will survive and vest legitimacy upon the new state. The mandatory control of Mindanao seemed relative only to status issues that have developed between a regional entity without autonomy and the nation-state in question. But manipulative corruptions in Manila have adverse distributional effects due to blurring of levels of analysis of the Bangsamoro problem. It is for this reason that the MNLF modality of power sharing combined with autonomy has lost credibility. Regionalism provides only autonomy: Without forms of power sharing, it is less integrative and somewhat federative. It may at best have a quasi-constitutional ground. In contrast, the MILF envisions the BJE to be entrenched in a comprehensive compact right from the start.

My advocacy to establish foundational criteria reconfigured in diplomatic practices is articulated to bring about an ingenuous solution. Foreign policy and domestic politics have become difficult to disentangle because of the transocial relations of the Muslim community. The Mindanao conflict needs a closure, but what it cannot foreclose is the democratic right of the Bangsamoro people to determine their future political status ending in referendum results. Conversely, the closure of the conflict should and must end eventually in popular consultation process provided for by international law.

1. *Organic bonds within the community.*

The involvement of the Organization of Islamic Conference (OIC) in the MILF-GRP Peace Process implies the OIC's formal recognition of the MILF's claim to representation of the Muslim South of the Philippines. It is tolerable to ask if there is a real stable identity to the Bangsamoro people; for this identity is not repressed or concealed. Because it can be decided as to who is included and who is excluded or given a choice, the MILF-GRP Peace Panels adopted identity as an animating principle behind consensus points on governance strand

of the Ancestral Domain agenda. This acknowledgment corresponds to the criterion of organic bonds within the community claiming it, relating to common historical, cultural, religious, or ethnic ties.

MILF outlook and assertiveness advance ethos of sharing autochthonous claims or grievances to assert conceptual precedents. But as a party to the negotiation, its peace panel puts forward cogent arguments; it listens inasmuch as it accepts demonstrably reasonable outcome.

It is clear how well the coordination is working. The BDA has actively cooperated with the World Bank-Multidonor Joint Needs Assessments (WB-JNA). Giving priority to the economic sector is now boosted with the formal decision of a Japanese agency to join the IMT in a nonmilitary capacity to assist in development plans and works. By linking closely with the military and armed forces via the Coordinating Committee on Cessation of Hostilities (CCCH) and Ad Hoc Joint Action Group (AHJAG), the MILF leadership has answered to calls of removing threats to communities and building confidence to lend legitimacy to the peace process.

2. *Develop understandings of legitimacy.*

When it comes to the plea for republicanism, democracy, and minority rights, modernity marks the conception of citizenship among diverse societies via concrete participation. Mandated benchmarks are both necessary and essential for preparatory work on final status negotiations. International law provides various criteria for exercising attributes of sovereignty over a territory even for only an interim period. If a community desires statehood, as some commentators point out, the idea of a pre-existing unity may be avoided in nationalist ideology precisely via the social construction of the single most important criterion of nationality, i.e., shared national grievance.

There lies the crux of the age-old Moro problem that is embarrassing the Philippine state, whose own identity is the historical product of a communal wish to enjoy a sovereign status on the basis of an assertion of constitutional independence. Just as this vision of Filipino nationalism problematizes social relations linked to its colonial legacy, it also produces a challenge to Bangsamoro colonizability that takes political form during armed conflict with the military. Security is tied to a nationalist identity; but not until people, rather than citizens,

are the primary subjects of security can a comprehensive peace compact be achieved.

This key point is, in turn, linked to specific cultural pretensions of the interest of its *demos*, embedded in the protocols or exclusionary practices signified as nation-a-forming (domestic citizenry) and popular sovereignty (plebiscitary consent). What reinforces distinction between people and citizenry is statist identity that constructs citizenship as synonymous with loyalty to eliminate all of that which is foreign. Underscoring protection against outside military threats delegitimizes all claims to authority of the sort made in behalf of territories and peoples with non-western cultural traditions.

Does it matter today that the incorporation of Moro territories into the Philippines has not been about modernizing efforts through benevolent assimilation? Nor has it come at the price of tutelage or truncated promise of institutional reforms? A compromised sovereignty emerged out of the balances of foreign interest in the writing of Treaties and Protocols relating to Sulu, Palawan, Mindanao, and its adjacent islands. There was no way for the Moro polities to embed the strategic value of their territory into the Western Great Power games. Practicalities of a new era demand asymmetrical modality for the Bangsamoro people to determine the nature of their own belonging with impulses for non-centralization.

3. *Reconcile authority with self-determination principles.*

There are principles of self-determination and human rights international instruments involved in the MILF-GRP framework documents. Human security concerns are written into the Implementing Guidelines on Security and Rehabilitation Aspects of the MILF-GRP. Adherence to Protocols 2 and 3 for the protection of combatants and noncombatants and the role of the International Committee on Red Cross (ICRC) in the war of 2000 figured out. IMT overlaps the internal/external margins as it performs its function.

Yet it behooves now on the part of the Philippine Republic to do better—to boldly tackle the fault lines at the borders with its own just sense of duty and fairness—where the US failed in the American sense of justice, sense of government, and sense of capacity to usher in prosperity. But can America still rectify it? By voluntarily agreeing to

a bilateral territorial consent to demarcate Bangsamoro territory, the Government of the Philippines could show its flexibility and, if the population desires to form a BJE in associative ties with the republic, should establish legitimate core requirements thereof.

Should the MILF-GRP successfully negotiate a political settlement of the Mindanao conflict, it can establish subjective legitimacy to the BJE via comprehensive compact with the central juridical authority. By the practices of earned sovereignty, MILF precisely proffers incremental gains of past agreements—treaty-based rights and criteria of subjective legitimacy presently entrenched for institution building. The right of the Bangsamoro people to determine their future political status, with option defined in transition mechanisms, sequences, and time periods ending in the referendum results, is based on popular process as source of claim to statehood.

Ideation of quest for homeland

Shared beliefs in freedom and aspirations for self-determination are powerful abstractions. Given the temporal depth of claims/conflicts, we do not take for granted the western duality of freedom and the necessity of war. Rather, it is the promise of just peace, more than the exploitation of antagonism, that anticipates progress in the political world. Formidable hardships are faced when arguments are made to support claims concerning the gradual emergence of the idea of sovereign will on what is required.

A good start is the word combination “homeland” that conveys a bounded yet extensive territory. The recourse to the idioms “motherland” or “founding fathers” embodies that ideation of who has sovereignty. Apart from the rightness or wrongness of this historical claim of what we have as a foundational status are configured mixtures of partly actualized historical order or similar undefined entities. Sovereign will signifies the start of political struggle, not the site of the foundational entity; thus, the transitory process has the defined function to stabilize earned sovereignty so provisional statehood or conditional sovereign authority can be signified on ground. Still it recurs—arguably in various forms at diverse spatial and temporal locales—as protocols become established for governing relationships. Because our modern conception

of sovereignty has space as the most important dimension, so space and territory are always tied up together. We advocate, however, that it is plausible to conceive of a deterritorialized spatial solution as conditional. Portraying this deferment of domestic community's essential project for rational national unity opens critical space for rearticulating the modern political organizing principle of sovereign statehood.

Writing in this manner, my purpose is merely to trace the changing functions of sovereign will and to defer its understanding in favor of genuine or serious questions of enmity and amity played out in diplomatic circles. As it is, for the Bangsamoro people's struggle, when policy becomes foreign, what is alien to the nation state? Much has been made of the novelty of the Philippine setting in regard to negotiating the gradual transference to sovereign statehood with reversion of alien sovereignty implicating both military basing and parity rights. It still generates controversies—as in the case of the Balikatan exercises⁷ in Basilan, Cotabato, and Sulu—that puzzle the peasantry.

As our communities become identifiably distinct from the real government, what we end up with is a disjunctive sign of sovereign (political) authority relative to arrangement of associative ties and tiers for internal legitimacy. Unsettled are questions of what the range of authority of a domestic community might be in practice. So far, no standards derived from global autonomy arrangements are aggregated into a single international covenant. Nevertheless, a range of intermediate statuses associated with provisional statehood via earned or phased recognition is evolving. By this route, we confront earned sovereignty as a constitutive principle. It is viable in bringing closure to the Mindanao conflict that is currently so tangled with interactive dynamics of a territorial state and nonstate practices that contest the foundations of sovereign authority.

I hope to redirect analysis and scholarship to look at our new approach to sovereignty-based conflict settlement: To view its modality not as an erosion of a territorially bounded entity, but an indication that statecraft is not primarily about relations between the sovereign state, but also relative to the governance of its component units. To document how that entity is in the process of emerging or changing in its capabilities for full juridical autonomy on the international scene, we examine the plausible transformation of its constitutive elements.

Interrogating the Philippine State

It is erroneous to confuse legitimacy with justice. Interrogating the Philippine state makes possible inquiring into the justness of the original position pertaining to the stately foundation of authority. The struggles to establish and displace the sovereign foundations of the monarchical order follow the evolution of the shift of the locus of sovereign authority from the ruler to the people represented at the Malolos Congress.⁸ Who is or was represented? Too easily is it taken for granted that those represented equated the nation.

Competing perceptions of history and current reality would likely undermine the MILF-GRP Peace Talks without skillful facilitation that allows all options to be on the table. I take the position that prior to the American intervention, location of sovereign authority was the Spanish monarch from whom all powers originated governing the Philippine Islands as a colonial possession. It was just that the foundational authority figure for the most part of Mindanao (except the northern portion) and its adjacent islands and the Sulu archipelago, including Palawan, were the rulers of the dynastic realms of Magindanaw, Sulu, and Ranaw.⁹

Success in pursuing self-determination requires peace researchers political sophistication in drawing from the unique features of local political experience. Thinking through the mixtures of colonial policy tools and goals, we must cut deeper into the abstract idiom that underlies current political ideas and structures. My principal concern is to offer something emancipatory beyond an explanatory account of the Philippine state.

Context of integration under subjection

First, justification for control of territory by Spanish conquest and American colonization defined the understanding about the workings of power to exploit resources. The notion of temporary rule for the benefit of the people projected the idea that to be sovereign is to be fully developed upon subjection. To what end? The integration model is only a limiting case of the general theory. The conclusion that the Moros were in some sense uncivilized and thus seem to have no locatable sovereign is itself contested. In practical reality, America

disregarded the Moro political aspiration when it established itself as the occupying protectorate. *A priori* arguments prevailed that Moroism exists in Mindanao and its adjacent islands, constituting another power on land founded on interdiction and law. On its logic are tangled public confidence, practical indicia concerning the dual context of political violence, protracting armed struggle in the service of political objectives, authority figures, and the rise of extremist groups at the border areas.

Why are there separate states? Is it the case then that they represent the distribution of the world into nations? Or is it just that brutal and arbitrary means characterize how the state has been constituted? Shift in the basis for the locus of power and authority now makes it possible to deconstruct that foundation of the political system that organizes law enforcement.¹⁰

What the late MILF Chairman Salamat Hashim appealed, in a letter in 2003 to US President George W. Bush, is about rectifying a historical error in US policy of incorporating the Moro polity into the Philippine polity. This recourse to a friendly Great Power is, for the MILF, to signify the legal framework and peaceful means of good offices. The reply of Assistant Secretary of State James A. Kelley to Salamat is clear about the US recognizing that the Muslims of the Southern Philippines "have serious, legitimate grievances." The US will not mediate nor will it participate in the negotiations directly; yet it stands ready to support, both politically and financially, a *bona fide* peace process between GRP and MILF. Kelley assured that the US "will not seek to supplant Kuala Lumpur." Indeed, the US seeks to work with the Malaysians for a successful peace settlement. In fact, the State Department has tasked the USIP instead "to further" the peace process.

Our inquiry into the limit of the political world harks back to the theory and practice of proto-sovereignty when the problem of piracy was confronted systematically because it represented a test case of the extent of sovereign authority and autonomy. To us, in modernity, outlawry is a public declaration: Thus, to account for the reconceptualization of negative, reactive, and immanent power of civil interdiction operatively substituting for police power in hot pursuit by *ad hoc* joint action group against criminal syndicates is to reconsider the sovereignty/intervention boundary. On a positive note, the track of MILF-GRP Peace Talks promises to be the linchpin of the broader Mindanao peace process:

The legitimate fight in defense against terrorism. Taking these pointers together may reflect public willingness to accept questionable features of political control for satisfying needs, albeit it often blurs the difference between domination and liberation.

Aspirational context of assimilation

Second, even as American benevolent assimilation offered the dependent peoples a prolongation of the parent state, it was aspirational for the metropolis and elite Filipinos. If a republican state warranted popular sovereignty characterized by the making of majority/minority, the appeal to equality and inalienable rights are ultimately traced to American tradition and Hispanic Catholic heritage. Via political aspirations, worldviews, value claims, transformations, and so on, the stepwise interventions take place to organize equivalent liberal capitalist democracy. This project of universalizing the liberal movement from below neglects its troubled relationship to time dimension.

Thus, invasion discourses on manifest destiny of the American people to establish the boundaries of the nation from the Atlantic to the Pacific pointed to who are the people in the Philippines. To obscure manifold differences, the international had to be assimilated and turned into a domestic entity in order to guarantee legitimacy, with the people as the referent. Controversy has raged on, as in episodic events, because self-evident truths are negated in recent sovereign remedies for complicity to questions of legitimacy.¹¹

The compelling effect of this story opens up how Mindanao had a predominantly Muslim population whose serious grievances and frustrations with the status quo boiled up in 1968, culminating in the Muslim Independence Manifesto (MIM). Continued loss of Muslim superiority and dominance in Mindanao is a critical factor to the pursuits of occupation dependent upon the generative power of the earth, the control of land area, and the use of resources. Continuity of demands clustered around agenda for MILF-GRP negotiation resonates with modern criteria to garner consensus¹² inclusive of the indigenous people.

Context of crisis in autonomy

The autonomy envisaged in the MNLF-GRP Final Peace Agreement of 1996 has come half a century after the inauguration of Philippine independence in 1946.¹³ Arguing for an emancipatory framework of political space, it poses helpful dichotomies for the Moros as distinct, separate polities.

And it has conditioned, too, the limit of ideological silence pertaining to the abstract entity of representation of the Philippine body politic in its foundational status. The natural logic of episodic events of EDSA 1 and EDSA 2 reinforces the power of the basic argument of the article: the full autonomy of the juridical entity is in crisis.

1. The formative union of state and nation.

Now we can presuppose that the return of the body politic—union of state and nation—as the metaphor of full juridical autonomy creates a mutually reifying effect on the more abstract and transcendent concept of territorial status. And so, I suggest that understanding the republican state to give impetus to the geographical orientation of political control inhibits reorganizing reality of demos actors' plea for revolution at the capital region. This underlines all the more that the regularity of election is the essence of republicanism.

As borne out during the term of Fidel V. Ramos, progress in the MNLF-GRP negotiated settlement required a re-evaluation of parameter problems and international monitoring mechanisms. From its incipience, this process was eroded by internal political dynamics and troublesome unilateral interpretative constitutional process for obtaining plebiscitary consent. There is thus, on one spectrum, a challenge to the Macapagal-Arroyo presidency to configure by any conceivable good faith the application of the standards implementation phases through the remainder of her term. On the other spectrum, the MILF-GRP negotiation issues deserve a mixture of lessons learned as grid of peace process. Central authority can very easily eliminate the condition of colonizability via earned sovereignty formulation, according to the set of hallmarks for permanent and final status negotiation.

2. The contested claims for authority and freedom.

Martial rule during the 1970s was an alibi governance structure acting to preserve the sovereign foundation of the republic, thereby saving it from dismemberment. The protection of interest is not a theory: Its analysis turns on a political acumen to deal with concrete problems. Justifications to use state coercive power have taken in the name of authority. For Marcos, a theory of revolution from the center was necessary to arrest the fragmentation of practical political authority. Authority is what official claims invoked when the Jabidda plot¹⁴ and massacres of Moros in genocidal proportions occurred and Muslim-dominated provinces were gerrymandered. The worsening armed conflict in Mindanao from 1972 onward invited OIC member countries to intervene. And the subsequent 2000 wars of presidential ambitions demonstrated how bad governance and political violence result in an unstable status quo. Government effectiveness is a core tenet in international and internal legitimacy, which precisely deals with power and leadership.

Considerations of the 1976 Tripoli Agreement by now are intertwined with the 1973 Constitution, 1986 Freedom Constitution, and the 1987 Constitution. Parameter difficulties must be broadly settled to negotiate the crucial concepts: Autonomy, independence, and freedom. How can claims to the final status of the Bangsamoro people be determined by an open political culture that shifts with the assumption of a single logic to account for them? A popularly elected government is not enough to recast the distinction between two key concepts: Government and people. It is not sufficient because the Constitution is too narrow a framework to negotiate the Mindanao conflict and the problem of the Bangsamoro people. Neither is it genuine enough to invoke the limitedness of the constitutional process. In this context, the autonomous regions covered by autonomy-specific provisions of the 1987 Constitution do not encompass self-determination in regard to the associative claims of authority, self-rule, and freedom.

Emerging context of association

The concept of territoriality is hardly investigated in international relations. Even changes in the European Union and global economy move beyond state sovereignty and territoriality towards overlapping authorities and non-territorial offshore markets. In the first place, international relations theory is not adept at problematizing the discontinuity in the state system to yield to instances of configuring political space. There is no search for entities substitutable for the state; what takes place is the unbundling of territoriality.

Yet, from another angle, the practice of *ad hoc* intervention does short shrift the doctrine of free state association. For political effect, association allows a degree of self-governance with delegation of power. Post-colonial transition type is practically replaced by intervention for political trusteeship or earned sovereignty approach following the official end of the UN trusteeship system. Given this reality, however conditional or grudgingly ceded, a portion of the juridical autonomy of the parent state produces particular competencies. Meantime, trying to sort out why former colonial states vary points our analysis back to their different foundations of sovereign authority. Very few states have actually possessed full juridical autonomy—the Philippines among others—and thus might be characterized as quasi-sovereign states. And while no stable “domestic community within clear, fixed boundaries” can be located, it has become analogous in historical event to speak of failed states.

1. The argument for foundational status.

Treating seriously Philippine sovereignty as a question already settled poses a challenge to reconstruct or deconstruct its foundational status. Take the notion of sovereign voice of authority: Philippine quasi-sovereign state status permitted it to be a founding member of the United Nations (UN) now enjoying a nonpermanent seat in the UN Security Council. Within the state system, its membership in the Association of South East Asian Nations (ASEAN) denotes sovereign statehood. In addition to this spatial dimension, the Philippine entity's full juridical autonomy and political identity can be inferred from diplomatic practice in current global political life.

Having attained some measure of legitimacy, how does the OIC observer status of Bangsamoro represented by MNLF implicate the intersections of politicized discourses between GRP and the intervening states? By this means of state behavior, the OIC resolutions discursively convey to GRP the concerns over the situation in Mindanao and Sulu; even if changes in the conduct of the state occur, we can detect the transitory character of the nexus of relationships of entities. More importantly, the OIC member states act as the legitimate interpretative community regarding Muslims in the South Philippines. Arguably, legitimacy should not be confused with justice. Although it means no more than agreeing to seek working arrangements via the permissible aims and methods of foreign policy, it implies tacit acceptance of international modes and standards of procedural steps in peace negotiation.

As for the MILF-GRP Peace Talks, the Government of Malaysia as facilitator allows the parties to work out the terms of reference as a necessary part of the framework. The exploratory talks break the structure of discussions into components of negotiation for the acceptance part and serves more for the negotiation of obstacles while tackling the substantive issues. The content part is more concerned with results rather than methods. The primary requirements of the procedure are confidentiality and informality. Owing to the political sensitivity of the facilitation as a process, the parties and the facilitator are often reluctant to place on record, except in fairly general terms, all the details and nuances of the procedural steps they went through. It should be noted that this largely explains the fact that even *post factum* the Secretariat-Facilitator, the GRP, and the MILF have limited the access of the press.

2. *The argument for conceptual adjustment.*

Why negotiate and who are represented? It is a mistake to say that the theory of nationality is a retrograde step in history. This nationalist myth represents a break with the past, even as it casts it. Filipino nationalism aims at unification, but lacks the criterion of sharing grievances with the Bangsamoro people. Constitutive unity, when self-determination becomes associated with popular sovereignty, is attached to supposed nationhood; and what we call majority has the tendencies

for discriminatory bias. Pressure from this question creates an urge in separatist movements specifically tested on autonomy precedents attuned to the nuanced minority rights standards of equal protection of law, just like in mature nation-states¹⁵ where distinct national groups live under the same democracy. More to the point, homogenizing notions of democratic citizenship illustrate the need to revise some of the unitary statist sovereign entity assumptions in public and constitutional spheres of equality of all peoples.¹⁶

Concerning the facts about the formation of a monist polity into single-nation Filipino state, this Catholic country's unitary purpose invites abuse of authority and oppressive rule, despite certain claims of tolerance for diversity. The interest of the Bangsamoro people will only be part of it, but they will never be in it because they are not of it. Some of the secular ideological constructs basic to the aspiration toward Filipino nationalism itself would rather treat Moros as minorities, in the context of tribe or sector. In fact, as self-determined communities, they are not effectively governed, thereby rendering the nationalist ideals remote. Who does this republic satisfy when it tries to produce a general plenty and wealth-acquisition via rent-seeking capital center where the power of the regional institutions is largely marginal? How to make sense of the status of the political economy so dependent on division of labor forces generative of overall wealth overseas—a situation that further suggests the ambiguities surrounding the sovereignty dilemma? To say of this phenomenon that it is retrogression to quasi-state status is not to say that it is a social capital formation for institution-building purposes.

3. *The substantial argument.*

Not only do present generations assert Bangsamoro identity as a birthright, but increasingly assert also the demands of current self-understanding of territorial relation in Mindanao as a homeland. There are legal grounds and joint advocacies as to reverence for the land of their forefathers, as to their attachments to ancestral domain, as well as to ancestry of those who are perceived to have put elements of self-governance into the land, thereby making it a territory. When we talk about a nation becoming a state from the vantage point of the duality of sovereignty—as a principle organizing our political reality and the

understandings of it—it implies that politics needs a domestic arena with order, freedom, and authority. When the Bangsamoro people assert nationhood, we are not necessarily led back to the sovereign state; for a quasi-state is a susceptible recipient of intervention in various forms.

Associative ties and tiers entrenched in spatial dimension perceived to be a geographically contained structure of *de facto* asymmetries—cultural, historical, geographic area, and so on—have greater potential for including national pluralism in a compact with which this type of asymmetrical agreement is constituted. To avoid an identity-based fragmentation of the political space, our common grasp of what is consent of the governed must encourage social trust attributes in the totality of relationships that underpin the contractualist rationale for empirical entities. Translated into the context of municipal trust law, it promises a more secured future for the Bangsamoro people. Substantively, when state apparatus hierarchy is reversed by the transition process—leading from the status quo in sequences and time periods—with the defined function of entrenching Bangsamoro rights, the BJE is thus configured by the institutional status arrangement into the political actor attributes.

What types of alternative measure can the central government promote as social trust that, for reasons of equity and social justice, will enable the Bangsamoro people to calculate their capacity to realize their principal interests within and outside the Philippine republic? To be clear, it is a social quality or authority shared. This is not pure academic discourse about construction of new labels, but it is a process of agenda-setting.

One paradoxical measure is to provide in the fundamental charter a clause permitting secession under qualified conditions as to the frequency of consultative referendums and to the majorities required in order to exercise the option to secede.¹⁷ Contrariwise, this constitutional clause may impel the motivations of the members and of the majority group who are aware of the right of the region to opt for autonomous existence on the international state system.

4. *The institutionalist argument.*

The neo-institutionalist argument disarms the distrusts for collective rights that could bring authoritarian risk out of institutional mechanisms of demos: It is aware of the historical process that is full of wars, conquests, annexations, exterminations, or marginalization of whole peoples. But the actors have a way of taking revenge on the system.

Historicity grants the actor a more central place.¹⁸ Revolution signifies pure negativity, hence extra-constitutional, until Americans reinvented a “negarchy” opposite the “monarchy” matrix type. For all that, what is the un-thought of foundation between the Westphalian orthodoxy (1648)¹⁹ and the Philadelphian negarchy (1776)²⁰ models? What do we make of the Java-Malaccan negri or state system within the constellation of the sultanates simultaneous with the genesis of an international system? At the dawn of the state system in 1644, the Spanish colonial state attributed by treaty-right to Sultan Kudarat sovereign authority of the Magindanaw dynastic state. My point here is that the paradigm of rulership limits an understanding of the conceptual antecedents of sovereign authority in modernity.

In sum, the time dimension is underlined, indicating variant forms of sovereignty in historical periods seen as imposed negation of self-understandings opposite each other. That, in fact, does unravel the justness of the original position between the Bangsamoro people and the rest of the Filipino people. Making actual events more mythical adds on making myths more historical in our memories to help both nations understand themselves and to constitute identity. This way forward in our quest for genealogy of sovereign authority is both organized and historicized: In body social via rearrangement of identity and differences. It establishes sovereign authority as a principle of difference. Its origination is organically linked to the state as reified hierarchy and the nation as imagined community.

Interrogating the Philippine hierarchy-state as a whole entity therefore requires thinking out of the box, the kind that is capable of assimilating and associating political and social differences into one form or another and weaving them together as an array of arrangements and ties that acquire a new dimension: What is outside of the imported state is ideology; what is inside is foundation held under the sway of public opinion.

So much for the un-thought foundation of the state system. What happens now to the stress on nationalism arising from secessionist tendencies?

Given that the state has near absolute discretion to confront self-determination movements, it does not tell where to go from here. However, ambiguity does not imply cluelessness. When we work out sovereign statecraft in terms of shared sovereign authority relations, we can unpack what links the state and the contested nationhood. Sovereign will, when juxtaposed to the principle of *maslaha* or general interest, uncovers the bundle of political-constitutional solutions coupled with final status negotiation.

Notes

¹ This article is an expanded piece originally from the author's extemporaneous presentation during a Philippine Facilitation Project on Mindanao forum at the Woodrow Wilson International Center for Scholars, Washington D.C. on 28 September 2004.

² Addressing a petition to the US Congress in 1924, Moro datus and important persons formally used the term Moro Nation. This term was brought forward to the 1996 and 2001 Bangsamoro consultative assembly demand for a referendum.

³ Holy war.

⁴ A 2002 peace agreement between the Sudanese government and the Sudan People's Liberation Army, fighting for a separate state in Southern Sudan was signed in the Kenyan town of Machakos after a process of negotiations led by then-Kenyan President Daniel arap Moi.

⁵ Also translates as solidarity.

⁶ *Ethnie* is a French word to describe a pre-national ethnocultural group.

⁷ RP-US joint military exercises conducted as provided by the terms of the controversial Visiting Forces Agreement (VFA).

⁸ The Malolos Congress was held on 15 September 1898 at the Barasoain Church in Bulacan. Present were provincial delegates, some of whom had been appointed by General Emilio Aguinaldo.

⁹ It is immediately argued that politicians and academics are making a big mistake to be put in a position that they do not care about history. Foundation of sovereignty is open to definitional change.

¹⁰ One point bears mention: Intervention in its political form refers to policing practices by the United States. Is Australia about to practice that *posse comitatus*, too? To be sure, the US campaign against terrorism in Mindanao requires terms of reference linked to security and human rights abuse investigation in the discursive practice of diplomacy.

¹¹ The people power phenomenon has twice "legitimized" change in political leadership in the Philippines. In 1986, President Marcos was drummed out of Malacañang and forced to go on exile by a concerted mass protest action that came to be known as EDSA 1. In 2000, EDSA 2 prematurely ended President Estrada's tenure in office.

¹² Asking how likely is this self-understanding fostered among the peasantry can be answered by recalling one rhetorical poser in 1926: What next for the Moros? This orientation to the future has resulted in the Bangsamoro people organizing themselves to address different problems, including dilemmas in the process of being created. It requires a balanced MILF and MNLF appreciation of the roles they play as part of the struggle to contest alienation of Moro posterity.

¹³ Hence, parenthetically, 1996 coincides with the year marking the terminal point stated in the Zamboanga Declaration (1924) that contemplated a referendum option fifty years following that inauguration (1946). Against this backdrop of decolonization era, we can detect a new discursive practice when the Macapagal term-watch fixed 12 June 1898, abandoning 4 July 1946, to mark the episodic event of freedom and independence. This truncated understanding of sovereignty retraces its step to the British occupation of Manila in 1762 as a conditionality of its quasi-state genesis and the Japanese interregnum in 1942 that yield to the interrogation of the uncontested meanings of the sovereignty/intervention.

¹⁴ In 1968, Moro trainees were killed by their own officers at a secret camp in Corregidor.

¹⁵ Read: Basque, Quebec, Scotland, Ireland.

¹⁶ Mindanao, Aceh, Patani.

¹⁷ e.g., Canada, Russia, Sudan.

¹⁸ Backdrop: In the classics, the concept of revolution reads as “suprapolitical” and is taken as reserved for foreign policy; its application to political context is traced to Aristotelian doctrine of constitutional forms.

¹⁹ The Westphalian model refers to the 1648 Peace of Westphalia which ended the Thirty Years’ War in Europe. This was the first time in the history of international relations that distinct separate polities became sovereign. The Westphalian model gave sovereigns power domestically and independence externally.

²⁰ The Philadelphian negarchy refers to the federal union system with an embedded balance of power, legitimized by 1787 Constitution of the United States of America. The system in this case is the system of states constituted by the original thirteen colonies.