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Point-by-Point Government's Response to MNLF Demands



Peace and Development Panel for Mindanao and the Cordilleras

3/11/88 Pechinot

**The Government Panel's Point-by-Point Reply
to the MNLF Proposal of February 20, 1987
Manila, 8 April 1987**

Preliminary Statement

Before giving its point-by-point reply to the MNLF Proposal of February 20, 1987, the Government Panel would like to state the basic principles that the Aquino Administration espouses in these talks.

President Corazon C. Aquino and her administration are deeply sympathetic to the demand of Muslim Filipinos for regional autonomy as a means of their achieving progress and correcting errors and injustices of the past. She believes that with their empowerment in the running of the affairs of their government and the support of the National Government under her direction, the poverty and retrogression of Muslim Mindanao can be reversed and replaced by the prosperity and progress of people.

She also believes that the Islamic culture and way of life which distinguish the Muslim Filipinos from other Filipinos must not only be respected and preserved but strengthened and enhanced. Relations between Muslim, Christian and Highlander Filipinos — and all other Filipinos for that matter — must be on a level of equality and mutual respect, each keeping their distinctive ethnic and cultural characteristics, none over and above any other.

The Government Panel presented this paper to MNLF on 8 April 1987.

In order to achieve peace, which is essential to social change and development, she met with Mr. Nur Misuari, Chairman of the Moro National Liberation Front, in September 1986, to invite him to join the Government in a peaceful endeavor, to achieve these ends. Mr. Misuari accepted her offer. Peace and development are basic goals.

The first meeting was held in Jeddah, Saudi Arabia on January 3, 1987, under the auspices of the Organization of Islamic Conference (OIC) represented by Syed Shariffuddin Pirzada, its Secretary-General. The subject to be discussed was agreed on as follows:

"The two panels agreed to continue discussion of the proposal for the grant of full autonomy to Mindanao, Basilan, Sulu, Tawi-Tawi and Palawan subject to democratic processes."

Unfortunately, there is a difference of opinion between the two panels on the scope and significance of this sentence. The MNLF Panel takes the stand that this agreement amounted to a commitment of the Government Panel to "grant full autonomy to Mindanao, Basilan, Sulu, Tawi-Tawi and Palawan."

The Government Panel, on the other hand, holds that the agreement was only to "continue discussions on the proposal to grant full autonomy to Mindanao, Basilan, Sulu, Tawi-Tawi and Palawan." It points out that the minutes attached to the Jeddah Joint Statement clearly stipulated that "substantive talks" would subsequently take place in Manila, thereby showing that talks in Jeddah were insubstantial. Moreover, the technical panel formed in Jeddah, the Joint Commission, was to "discuss and draft" the *MNLF proposal* — as distinguished from an *agreement* of the parties — which would then still have to be submitted to the RP-MNLF Panels, at which level substantive talks would take place and binding commitments made.

The MNLF Panel did not wait for its proposal to be drafted and fleshed out by the Joint Commission but, instead, filed a complete one of 13 pages and 26 points. On the other hand, the RP-MNLF panels abolished the Joint Commission. The situation then is that the MNLF proposal

is before the panels. Only at this stage are substantive negotiations to take place. Heretofore, no commitments could have been made, everything having been only at the proposal stage.

Be that as it may, there was a supervening event that made impossible any valid agreement that the whole Mindanao and the other islands should be under an autonomous government. Even if the parties had entered into one, this event nullified the same. We refer to the ratification of the Constitution in the plebiscite of February 2, 1987. Even at Jeddah, the parties already knew that, upon ratification, the provisions of the new Constitution would be controlling.

The Government Panel repeatedly told the MNLF that its "hands were tied" by the new Constitution. This explains why Mr. Misuari asked the President, through the Government panel, to suspend the submission of the Constitution's autonomy provisions to the plebiscite. He knew that, if ratified, the New Constitution would be controlling.

As it turned out, the President declined to grant the suspension. The whole Constitution was overwhelmingly ratified by the people. (It is significant that the affirmative votes go the highest percentages in the provinces and cities of Muslim Mindanao, among them Sulu, in which close to 95% voted for ratification.) It is now the charter of the people within which all government power must be exercised. More specifically, the creation of autonomous regions must adhere to its provisions thereon. Section 15, Article X, of the new Constitution expressly indicates the areas marked for inclusion in the autonomous regions: Muslim Mindanao and the Cordilleras. These areas — and these alone — qualify for inclusion in the autonomous regions. If the Constitution had intended to qualify just any region in the Philippines, it would not have been so specific.

Could the autonomous regions include the whole area sought to be included by the MNLF: the whole of Mindanao plus Sulu, Palawan, Basilan and Tawi-Tawi? Obviously, Palawan must be excluded, not being deemed part of Mindanao. In fact, it belongs to Region IV, Southeastern Luzon.

Could the whole of Mindanao be included? The answer must be in the negative. The Constitution, apart from specifically mentioning Muslim Mindanao, expressly defines the basic characteristics of the area which would qualify for

regional autonomy: "provinces, cities, municipalities, and geographical areas *sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics*. . . " The provinces and cities of Mindanao which are non-Muslim cannot be said to share common and distinctive historical and cultural heritage with those described by the Constitution as Muslim Mindanao. It is therefore unconstitutional to lump the whole of Mindanao as an autonomous region. Neither could non-Muslim populated provinces and cities of Mindanao, by themselves, be made into an autonomous region under Section 15, Article X, of the Constitution, because they are not areas with characteristics different from the rest of the Philippines.

What then is the area of Muslim Mindanao? A scrutiny of the debates in the Constitutional Commission showed that this body meant either (a) the five predominantly Muslim populated provinces — Lanao del Sur, Maguindanao, Sulu, Basilan and Tawi-Tawi, or (b) more liberally, the areas of the autonomous regional governments created under Presidential Decree 1618, which at least gave them *de facto* recognition as Muslim Mindanao, according to the debates of the Constitutional Commission.

All these considerations lead to the inexorable conclusion that the MNLF proposal to include all of Mindanao and Palawan in the proposed autonomous region contravenes the Constitution.

This leads us to a second basic premise: the solution to the Moro problem must be sought within the parameters expressly defined by the Constitution: "within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines." (Sec. 15, Article X, Philippine Constitution.)

This position of the Philippine Government has been endorsed by the OIC as far back as the Tripoli talks in 1976 and continues to be the basic framework of its negotiations with the MNLF under the auspices of the OIC.

Having the foregoing considerations in mind, the Government Panel, now begs to submit to the MNLF Panel the following written point-by-point reply to their Proposal.

A POINT-BY-POINT ANALYSIS AND REPLY TO THE PROPOSAL

1.0 Basic Point Agreed Upon in Jeddah

MNLF Proposal

1.1. The grant of full autonomy for the islands of Mindanao, Basilan, Sulu, Palawan, and Tawi-Tawi.

Government Panel Response

Could the autonomous regions include the whole area sought to be included by the MNLF: the whole of Mindanao plus Sulu, Palawan, Basilan and Tawi-Tawi? Obviously, Palawan must be excluded, not being deemed part of Mindanao. In fact, it belongs to Region IV, Southeastern Luzon.

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All these considerations lead to the inexorable conclusion that the MNLF proposal to include all of Mindanao and Palawan in the proposed autonomous region contravenes the Constitution.

The Government Panel regrets to note that, in quoting the Jeddah agreement, the MNLF Panel has failed to include the words, "subject to democratic processes," which is an essential part thereof. The Government Panel states that the plain meaning of these words is that any agreement reached in these talks must be submitted to a plebiscite among the people of the affected areas.

2.0. Basic Proposals of the MNLF to the Philippine Government

2.1 Foreign Policy

MNLF Proposal

Foreign policy affecting the area of autonomy shall be the competence of both the National Government and the Autonomous Government.

Government Panel Response

The Government submits that the proper place to take up this subject is the organic act of creating autonomous regions to be passed by Congress, as specifically mandated in Section 18, Article X of the Constitution. Nevertheless, pending the creation of Congress of said autonomous regions, the Government Panel proposes that any foreign policy affecting the area to be administered by the Preparatory Coun-

cil, as proposed in the Government Panel proposal, shall be adopted by the Philippine Government only after consultations with the authorities of the Preparatory Council.

2.2. Territory and Its Name

MNLF Proposal

The area of full autonomy shall be known as the Bangsamoro Autonomous Region. The territory of the Bangsamoro Autonomous Region comprises the islands of Mindanao, Basilan, Sulu, Palawan and Tawi-Tawi, and all the other islands, islets, and waters embraced therein, the terrestrial, fluvial, and aerial domains, including the territorial sea, the sea bed, the subsoil, the insular shelves and other submarine areas. The waters around, between and connecting the islands of the area of autonomy, irrespective of their breadth and dimension form part of its internal waters.

Government Panel Response

The Government Panel takes the position that the creation of the autonomous region in the Muslim Mindanao is specifically provided for in the Constitution of 1987, as above stated. Consequently, this proposal should be taken up when the Philippine Congress and/or the Regional Consultative Commission provided for in Section 18, Article X of the Constitution, consider the autonomy law for the region.

Incidentally, the Government Panel notes that the description of the territory stated in the MNLF Panel is a word-for-word copy of the description of the national territory of the Philippines, in Article I of the Constitution, except that it is limited to Mindanao and other islands therein mentioned. In other words, were the Government Panel to agree to this proposal, it would in effect be recommending the removal of one-third of the country's total area from the sovereignty of the Republic. Such a recommendation would violate the basic parameters of these talks that all agreements must be within the context of the Philippine sovereignty and territorial integrity.

A concession may be made by stating that AFP elements presently stationed in the area of the autonomous region will be gradually reduced as the peace and order situation improves leaving only those elements which are permanently stationed in the area.

The exercise of the powers of the President as Commander-in-Chief by the Chief or Highest Executive official of the autonomous government is, again, highly impractical.

Such power of the President runs down through a single chain of command to the Secretary of National Defense and the Chief of Staff, AFP, down to Major Service Commanders and subordinate commanders for practical necessity. The proposal seeks to create *two* chains of command in the AFP; if not *two armed forces*, one the AFP, the other the RSF.

The proposal in essence is violative of the Constitution, impractical, and poses danger to the security of the State.

2.3 National Defense Affairs

MNLF Proposal

The National Defense Affairs shall be the concern of both the National Government and the Autonomous Government provided that at least eighty-five (85%) percent of the Armed Forces of the Philippines (AFP) personnel within the area of autonomy shall come from the Bangsa Moro Armed Forces of the Moro National Liberation Front (MNLF).

The elements of the Armed Forces of the Philippines presently stationed in the territory of the autonomous government by virtue of the war with the Moro National Liberation Front shall be withdrawn immediately from all parts of the region while those elements stationed therein before the war shall be pulled back quickly to their general headquarters and in no instances shall they be armed when leaving their headquarters or barracks.

The powers of the President of the Philippines as Commander-in-Chief of the Armed Forces of the Philippines (AFP) shall be exercised by their Chief or Highest Executive Official of the autonomous government within the area of autonomy.

Government Panel Response

Sec. 21, Art X of the Constitution provides:

“ . . . The defense and security of the region shall be the responsibility of the National Government.”

Without going further into legal aspects, the proposal is impractical.

A. Both from the policy planning and operational standpoint, national defense, both internal and external, cannot and should not be divisible, but should be integrated. Such integration can only be most effectively attained under a *centralized* authority.

The proposal that national defense affairs shall be the concern of both the National Government and Autonomous Government impairs that integration and centralization of authority which can lead to disastrous consequences in case of war or other crises leading to armed conflict.

Nowhere in other countries where autonomy has been granted is national defense a shared responsibility by the autonomous government.

The essence of the proposal on National Defense Affairs is a specific provision that it shall be the concern of both. If only, therefore, for the reasons cited above, the proposal should be rejected.

B. But to go further into the other points raised.

(1) The principle of representation of the population in the AFP is enunciated in the Constitution. Sec. 5 (6) Art. XVI provides:

“2) The officers and men of the regular force of the armed forces shall be recruited proportionately from all provinces and cities as far as practicable.”

This can be implemented administratively within the AFP.

Certainly, our Muslim brothers are entitled to this proportionate representation, but not the 85% as proposed. The Muslim Filipinos in the proposed autonomous region comprise a minority only (less than 20%) of the entire population thereof.

C. Points 2.3 and 2.4 of the MNLF Proposal are a derogation of sovereignty insofar as national defense is concerned. It dictates a strategic and operational matter that is reserved for the national authority.

Furthermore, and as a word of caution, it reduces the defense posture without the MNLF forces in the region to a point of ineffectiveness if not helplessness. What if things with the MNLF go wrong?

The President has directed the Departments of Local Government and National Defense to submit their study and recommendations to implement this provision, not later than 30 April 1987.

It appears therefore that when the autonomous regions shall have been created, but not earlier, RSF may be accommodated, either with the mission of *security or peace and order* (police) under the following terms and conditions:

(a) With security mission

As part of the AFP (Philippine Army) under its chain of command.

(b) With police function

As part of the AFP (Philippine Constabulary), under its chain of command. The MNLF, as *individuals* could be accommodated in the local police forces, subject to the authorized quota ceilings.

(c) The possibility of a distinct, separate Regional Police for the autonomous region will have to await the enactment by Congress of a law on the National Police with provisions suited to the police force in the autonomous region.

From the government standpoint:

1. From the security standpoint, more particularly in relation to the communist insurgency problem, there is no real need for a security force as a distinct separate unit at the regional level. The AFP as the *organization* charged with defense and security is *structurally sufficient* and capable of

carrying out this responsibility. What is needed is more manpower.

2. Admittedly, the government, the AFP in particular, could use more manpower but it has not been able to increase its personal strength because of budgetary constraints.

3. From the police function standpoint, the local police forces could use more manpower, but as in the case of AFP, the needed increase in the strength of the police force is also constrained by funds.

4. Furthermore, an RSF under the command of the MNLF with 85% of its strength coming from the MNLF, is divisive. It would only heighten the mistrust and apprehension of the Christians and non-MNLF Muslims.

But if government must accommodate on the RSF issue, it is therefore recommended to be under the following terms:

RSF with the mission of security of the region.

1. It should be part of the AFP as a Philippine Army unit under its chain of command.

2. Its mission is to assist in the security (as distinguished from maintenance of peace and order as a *police* function) of the region.

3. Its composition should be proportionate to the population of the autonomous region.

4. Recruitment of members of the RSF will be in coordination with the autonomous government.

5. The operational jurisdiction of the units of the RSF shall be limited to the province where the unit is stationed.

6. Strength of the RSF subject to budget appropriations but not more than one company per province, initially.

RSF as a regional police force

1. It should be part of the AFP, as a Philippine Constabulary unit.

2. Same conditions as to points 3 to 6 above.

2.4 Regional Security

MNLF Proposal

A Regional Security Force shall be established in the

area of autonomy for the maintenance of peace and order with an initial strength of sixty thousand (60,000), at least eighty-five (85%) percent of which shall come from the Bangsa Moro Armed Forces of the Moro National Liberation Front.

The chief of highest executive official of the Autonomous Government shall be the Commander-in-Chief of the Regional Security Force (RSF).

Government Panel Response

Nowhere in the Constitution, particularly Secs. 15 to 21, Art. X, is it expressly or impliedly provided that a Security Force of similar force shall be established in the autonomous region.

Sec. 21. provides: "The preservation of peace and order within the region shall be the responsibility of the *local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws*. The defense and security of the regions shall be the sole responsibility of the National Government."

Sec. 6 Art XVI states: "The state shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in the jurisdiction shall be provided by law."

2.5 Administrative System

MNLF Proposal

The Autonomous Government shall have the sole powers to enact its own administrative civil service, and electoral systems for the region, political subdivisions, agencies and instrumentalities within the area of autonomy.

Government Panel Response

The RP Panel reiterates that matters concerning the future autonomous regions should be addressed to the Consultative Commission and to the Philippine Congress pur-

suant to the Constitution. However, it would like to note that the *sole power* to enact laws on the subjects mentioned is within the jurisdiction of the national government and the Constitutional Commissions expressly tasked by the Constitution to act upon matters within their jurisdiction, such as the Commission on Civil Service and the Commission on Elections. Any attempt to diminish the powers of these Commissions would be unconstitutional. Nevertheless, the national government may give wide latitude on this matter to the proposed autonomous powers, subject to the authority of these constitutional bodies.

2.6 Representation in the National Government

MNLF Proposal

The Authorities in the area of autonomy shall enjoy the right of just, equitable and proportionate representation and participation in the National Government and in all organs of the state.

Government Panel Response

Autonomy should work both ways: If the autonomous government wants to keep the national government out of its affairs, it should not ask to participate in the affairs of the national government *as a matter of right*. Worse still, the MNLF proposes that the autonomous government shall choose their own representatives for the different national organs of the government, thereby implying that the National Government's exercise of its judgment on whom to appoint is severely curtailed. Apart from the inequity and unfairness of the proposal, it would be well-nigh impossible to determine just what is a just, equitable and proportionate representation and participation in the National Government and in all organs of the state.

At any rate, at this point in time, where the creation of the autonomous regions is not yet under consideration, it is not necessary to discuss the matter further. The Government Panel, however, wishes to emphasize that the Government will continue the policy of appointing to as many positions of

responsibility as possible in the National Government qualified and competent Muslim Filipinos and to enlarge the area of participation of the Muslim community in the workings of the National Government. The recommendations of the MNLF will be given sympathetic consideration when a settlement is reached.

2.7 Legislative System

MNLF Proposal

A Legislative assembly which exercises legislative power shall be formed in the area of autonomy thru direct elections with at least one (1) representative each for the Muslims, Christians, highlanders and indigenous cultural communities from each of the component provinces and highly urbanized cities in the area of autonomy.

Government Panel Response

The MNLF proposes the creation of an elective Legislative Assembly for the autonomous region. When the proper time comes, that is, when enactment by Congress of an organic act for the autonomous region(s) of Muslim Mindanao shall have arrived, this proposal should be given serious consideration. At this time, however, it would be impractical to consider the same for two reasons:

(a) The Government Panel is not proposing an autonomous Government but simply a Preparatory Council to prepare the ground, among other purposes, for the creation by Congress of the autonomous region.

(b) The MNLF Panel itself, while proposing its creation on the one hand, on the other it proposes that the first election of the legislative assembly shall take place only in 1992. In other words, for (5) years from today, there shall be no legislative assembly. The two proposals are irreconcilable.

2.8 Executive Department

MNLF Proposal

The Executive Power shall be exercised by the chief or highest executive official of the Autonomous Government assisted by three (3) deputies and a cabinet.

The Chief or head shall have full control of all the executive departments, bureaus, agencies, and offices within the area of autonomy.

The head of the Autonomous Government shall appoint the heads of all government bureaus, departments and offices within the area of autonomy and those whom he may be authorized by law to appoint.

All powers not otherwise granted to or exercised by any office or agency of the government within the area of autonomy belong to the Chief Minister.

Government Panel Response

This is a matter to be taken up in the Regional Consultative Commission and the Philippine Congress when the organic act for autonomous regions shall come under consideration.

2.9 Judicial System

MNLF Proposal

The Autonomous Government shall have the power to enact laws for the establishment of a judicial system within the area of autonomy. Shari'a Courts shall be established in the area of autonomy for the Muslims.

The Autonomous Government shall have the right to repeal, modify or alter existing Shari'a Laws within the area of autonomy.

Muslims, Christians, and Highlanders shall be represented in all courts including the Supreme Court except the Shari'a which is for Muslims only, upon recommendation of the autonomous government.

The Autonomous Government shall have the right to establish a Regional Supreme Court which shall have, among other powers/jurisdictions, exclusive appellate jurisdiction over appealed cases arising from the regular civil courts and Shari'a Courts in the area of autonomy.

Government Panel Response

Inasmuch as the time to consider this proposal has not come, as in the case of the previous specific proposals, the Government Panel would simply wish to put on record the fact that it is in favor of the adoption of Shari'a laws for Muslims and the expansion of Shari'a Courts to administer and apply them when appropriate. This will be one of the functions of the Preparatory Council that it proposes.

2.10 Educational System

MNLF Proposal

The authorities of the area of autonomy shall have the sole right to enact laws to establish its own educational system and set up schools, colleges, and universities within the area of autonomy, and to adopt official languages to be used in the educational system and in the deliberations and proceedings of all governmental organs within the area of autonomy.

Government Panel Response

This, again, falls within the consideration of the organic act to be enacted by Congress. Nevertheless, the Government Panel is prepared to discuss the grant of powers over the educational system to the Preparatory Council within the provisions of the Constitution.

2.11 Economic and Financial System

MNLF Proposal

The Autonomous Government shall have the sole

power to enact laws for the establishment of its own financial and economic system within the area of autonomy.

Government Panel Response

This subject falls within the consideration of the creation of the autonomous region. The Government Panel would therefore refrain from discussing them. However, it would be prepared to discuss proposals from the MNLF on how the Preparatory Council could be given some specific authority in these areas.

2.12 Powers of Taxation, Eminent Domain and Police Power

MNLF Proposal

The Autonomous Government shall have the powers of taxation, eminent domain and police power.

The Autonomous Government shall enjoy a share of eighty-five (85%) percent of national taxes accruing or deriving from properties, businesses, or transactions within the area of autonomy.

Government Panel Response

This subject falls within the consideration of the creation of the autonomous region. The Philippine Panel would therefore refrain from discussing them. However, it would be prepared to discuss proposals from the MNLF on how the Preparatory Council could be given some specific authority in these areas.

2.13 Natural Resources

MNLF Proposal

The Autonomous Government shall have full control and supervision of the exploration, development, use, exploitation and utilization of natural resources within the area of autonomy.

The Autonomous Government shall have the power to enact laws to this effect.

The Autonomous Government shall enjoy eighty-five (85%) percent of revenues deriving from minerals and other natural resources within the area of autonomy.

Government Panel Response

This subject falls within the consideration of the creation of the autonomous region. The Government Panel would therefore refrain from discussing them. However, it would be prepared to discuss proposals from the MNLF on how the Preparatory Council could be given some specific authority in these areas.

2.14 Budget and Appropriation

MNLF Proposal

The Autonomous Government shall have the power to determine its own resources of revenues and approve its own annual General Appropriations Act separate and distinct from that of the National Government.

Government Panel Response

This matter would have to await the enactment of the organic act for the creation of the autonomous regions provided for in the Constitution.

2.15 Power to Negotiate for External assistance

MNLF Proposal

The Autonomous Government shall have the power to negotiate for and receive all forms of economic financial and technical assistance specifically coming from Muslim individuals, lending institutions and Islamic Organizations or governments.

Government Panel Response

The proposed grant to the autonomous government of

power to negotiate for external assistance, specifically coming from Muslim sources, could be granted to the proposed Preparatory Council.

2.16 Infrastructure

MNLF Proposal

All infrastructure projects being undertaken at the time of effectivity of this agreement within the territorial jurisdiction of the autonomous region and all funds appropriated therefore shall be placed under the direct supervision, administration, and control of the autonomous government.

Government Panel Response

A proposal on the subject is embodied in the Government Panel's proposal for a Preparatory Council.

2.17 Audit of Accounts

MNLF Proposal

The accounts of the autonomous government shall be audited by an independent Commission on Audit established and created by the Bangsamoro Autonomous Government.

Government Panel Response

This is a subject for discussion in the consideration of the organic act for the autonomous region. Insofar as the Preparatory Council is concerned, it could be given authority to have independent auditors, provided that it is without prejudice to the authority of the Commission on Audit as provided in the Constitution.

2.18 Election of Local Officials

MNLF Proposal

Elections of local officials in the area of autonomy shall be suspended. The date of the holding thereof shall be determined by the provisional government.

Government Panel Response

The holding of local elections all throughout the country is of supreme interest to the people. The country has not had local elections for over six (6) years. While the National Government has appointed Officers in Charge for local governments, there is a general clamor for the holding of local elections. The date for this has already been fixed and announced — Nov. 9, 1987. The policy of the Aquino administration is to broaden, not curtail, the participation of the masses of our people in the running of government.

The Government Panel therefore regrets that it cannot go along with this proposal.

2.19 Reconstruction and Rehabilitation for Bangsamoro Region

MNLF Proposal

The national government shall undertake to give indemnity to all civilian victims in the area of autonomy and those who have been slain, maimed, or deprived of profitable activity or have fled to the state of Malaysia as refugees, as a consequence of the imposition of martial law by the past dictatorial regime of deposed President Marcos or of the war between the Moro National Liberation Front and the Philippine Government, and to extend immediate assistance, financial material or otherwise, for the reconstruction and rehabilitation of the Bangsamoro autonomous region.

Government Panel Response

The Government Panel takes exception to the labelling of the MNLF insurgency as "war" which clearly implies that the MNLF is to be considered a foreign power or a group with the status of belligerency. This is not the case and is violative of the basic parameter of these negotiations: that it is a domestic issue which has to be treated and solved within the context of the sovereignty and territorial integrity of the Philippine Republic and within its constitutional processes. Any deviation from the basic premise is unacceptable and goes against the injunction to this effect of the Organization of Islamic Conference under whose auspices these talks are being held.

As to indemnification of those who are victims of the disruption of the peace and order of the country, the Government Panel is prepared to recommend humanitarian and compassionate measures to alleviate sufferings of the people arising from disorders. It is however, opposed to any proposal that would imply, as the MNLF proposal clearly implies, that it must pay "war damages."

In any case, the broad implications of the proposal are beyond the powers of the President to assume and should best be left to the full ventilation of the matter before the Congress of the Philippines.

2.20 Residual Powers

MNLF Proposal

All powers not otherwise explicitly granted to the national government with the MNLF belong to the Autonomous government.

Government Panel Response

Section 17, Article X, of the 1987 Constitution states: "All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government."

It is obvious that the MNLF proposal cannot be granted without violating the Constitution.

2.21 Provisional Government

MNLF Proposal

Immediately after the signing of the agreement, a Provisional Government shall be established to administer the area of autonomy and to prepare elections of the legislative assembly in the area of autonomy.

The Provisional Government shall exercise all powers granted to or inherent with the Autonomous Government in accordance with the agreement with the MNLF including apportionment of the seats in the legislative assembly. The Provisional Government shall continue to exercise powers until a government is formed by the elected legislative assembly.

The first election of the legislative assembly shall take place simultaneously with the national elections in 1992.

The Provisional Government shall be headed by a Chief Minister, with three (3) other Ministers representing the Muslims, Christians, and Highlanders and other indigenous cultural communities of the area of autonomy who shall all be nominated by the Moro National Liberation Front.

The Provisional Government shall undertake to consult with the people of the area of autonomy with respect to the grant of full autonomy.

Government Panel Response

As already stated, the proposed Legislative Assembly will not come into being during the said five (5) years and no local elections will be held. The Chief Minister, to whom the President is supposed to delegate the exercise of her powers as Commander-in-Chief of the New Armed Forces of the Philippines, shall also head the national and regional forces in the region. In a word, what is being proposed is to place the whole island of Mindanao, together with the islands of Sulu, Palawan, Basilan and Tawi-Tawi, under one-man rule by decree for five (5) years.

The Government Panel can only say, with respect to this proposal, that the Aquino Administration which came to power on the strength of People Power, cannot render such a disservice to the inhabitants of these islands, to the Filipino People and to the cause of democracy and freedom.

2.22 Repealing Clause

MNLF Proposal

All laws, acts, decrees, executive orders, proclamations and or administrative rules and regulations, or part or parts thereof which are inconsistent with this agreement are hereby repealed, modified, abrogated, or altered, as the case may be.

Government Panel Response

This proposed repealing clause vividly illustrates the grand sweep of the MNLF proposals, so much so that anything contrary to them is to be rendered null and void. This is the very reason why the Government Panel would not recommend to the President that she pre-empt the power of the Congress of the Philippines to enact an organic act for autonomous region (s) for Muslim Mindanao. Any decree signed by her to this effect would simply have no legal validity and would surely be struck down by the Supreme Court before which it will surely be challenged.

2.23 Amendments

MNLF Proposal

No provision of the agreement shall be amended, repealed, abrogated, or altered in whatever manner, as the case may be, without the recommendation of 3/4 of the entire membership of the legislative assembly of the autonomous government and the approval of the central committee of the Moro National Liberation Front as well as the majority of the registered voters of the autonomous region in a consultative process duly called for the purpose.

Government Panel Response

The above stated consideration makes it unnecessary for the Government Panel to comment on these paragraphs.

2.24 Proclamation by the President

MNLF Proposal

Immediately after the signing of the agreement between the MNLF and the government and before the first Congress of the Philippines in July 1987, the President of the Philippines shall issue a proclamation declaring full autonomy for Mindanao, Basilan, Sulu, Tawi-Tawi, and Palawan, pursuant to this agreement.

Government Panel Response

The above stated consideration makes it unnecessary for the Government Panel to comment on these paragraphs.

2.25 Effectivity

MNLF Proposal

The agreement shall come into full force and effect from the date of its signature. It shall be signed in Jeddah, Kingdom of Saudi Arabia in three (3) original copies in Arabic, English, and French all equal in legal power.

Government Panel Response

The above stated consideration makes it unnecessary for the Government Panel to comment on these paragraphs.

Manila, 8 April 1987

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