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WILL PEACE HOLD IN MINDANAO?

**Can peace prevail in Mindanao? The role of preventive
diplomacy and inter-state cooperation in ASEAN**

by

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Can peace prevail in Mindanao? The role of Preventive Diplomacy and inter-state cooperation in ASEAN

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Since its formation in 1967, the Association of Southeast Asian Nations (ASEAN) has been one of the most successful multilateral organizations to prevent inter-state conflict from the time of the Cold War to the present. Cognisant of the fact that most of the Southeast Asia countries emerged at the height of the tensions between the Eastern and Western blocs, the ASEAN has endeavoured to prevent conflict developing between member-states and within the region. For its first three decades, the prevailing objectives of ASEAN were to prevent the spread of revolutionary militant Communism across the region and to ensure that Southeast Asia would not be dragged into the Cold War. Since the 2000s however, ASEAN has had to face numerous non-traditional security threats and challenges, including religious extremism, terrorism, militancy, piracy, smuggling, illegal immigration and pandemics like SARS.

Moreover, for some members of the ASEAN, there have been instances of internal conflict, often arising from secessionist demands made by political armed groups who yearn for autonomy or independence: in Indonesia, conflicts have occurred in North Sumatra, Kalimantan and Irian Jaya (West Papua); in Thailand there has been an upsurge of violence in the volatile Southern provinces; and in the Philippines there has been conflict in the Southern island province of Mindanao.

The conflict in Mindanao has been seen by other ASEAN states as a primarily local

problem. The ASEAN practices the norm of non-interference, and therefore, have not interceded in what are considered to be local disputes. This norm is largely for the sake of maintaining and respecting the political authority of the respective governments of each country, and respecting their territorial integrity. However, there are instances (such in the southern regions of Thailand and the Philippines) where conflicts involving local movements may have a spill-over effect on neighbouring countries in terms of the proliferation of arms, weakening of border controls and effective border controls, illegal movement of migrants and refugees, etc. Malaysia is one country that has been adversely affected by the crisis in Mindanao; since the 1970s, the East Malaysian territories had to deal with the influx of Muslim Filipino refugees, including women and children, who fled their homes and were displaced by the violence in the region.

It was with the intention of containing the spill-over effects of the conflict and providing necessary support to the Philippine government that Malaysia has sought to be proactive in its efforts as peacemaker in the region and facilitator in the Philippine conflict in Mindanao. After three decades of hosting Filipino refugees and even settling many of them, Malaysia was keen to see an end to the conflict in the Philippines. The primary actors in the mediation process were the government of the Philippines, the leaders of the Moro Islamic Liberation Front (MILF) and Malaysia as the third-party facilitator.

The landmark Framework Agreement on the Bangsamoro (FAB) was signed on 15th October 2012, and it was lauded by both domestic stakeholders as well as the international community as the benchmark towards achieving just and lasting peace in the Muslim Mindanao. However, the Parties need to work out details of the asymmetric relationship (as agreed in the FAB) into annexes which cover governance, power sharing, wealth sharing, and the normalization process before the final Comprehensive Compact Peace Agreement (CCPA) can be signed. As experienced in many countries and other area of conflict, the durable peace can only be achieved if the peace agreement

can be implemented and its commitments and principles can be translated into socio-political realities.

Learning from peace process between the Philippine government and the Moro National Liberation Front (MNLF), the FAB was crafted taking into considering the need to eventually address the manifold issues associated with a multi-layer conflict. These issues include the evident lack of trust especially due to the problematic implementation of previous peace agreements; poor record of local governance; long standing issues such as marginalization, existing and unaddressed problem of poverty, among others. More importantly, it recognised the need to redress the more complex roots of a multi-layered conflict and the failed attempts in solving the decades old conflict in the Muslim Mindanao. These involve the presence of various armed groups and private armies (many of whom remain active and heavily armed), the historical injustice brought about after hundreds of years of the Spanish colonialism and the subsequent American annexation of the Philippines, the legacy of Martial Law that seemed to continue with oppressive practices harnessing social injustices and social ills, and which distorted the process of socio-political education for the masses and thus failed to create accountable and representative public institutions for local governance.

The Muslims of Mindanao have for decades been fighting and claiming for their ancestral domain and political recognition .The FAB was not only expected to answer the aspirations of the Muslims in Mindanao; more importantly, it acknowledges the grievances of the populations in the areas and establish the Bangsamoro identity and determined a geographical entity.

In addition, parties recognised that the current state of affairs or the status quo of the Autonomous Region of Muslim Muslim (ARMM) needed to be changed. This recognition is very essential towards achieving a true and meaningful autonomy in Muslim Mindanao, a perquisite for peace and prosperity in area.

The FAB is based on the inclusivity, pluralism, and equity; it has undergone a process of consultation and public engagement at national and grassroots levels. The parties continue to hold public consultations on FAB. While FAB is an agreement signed by the MILF and GPH, it also recognises the basic rights of the indigenous people and other minorities. The MILF has publicly expressed that they are not merely representing their organisation but support inclusion of all in the area as prescribed in FAB.

The asymmetric relationship is set to establish a ministerial form of government that is closer to the heart of the Muslims and could adequately respond to the desires of heterogeneous population with diverse needs and interests. Once implemented, this would be a long-overdue and much-needed step in allowing the Muslims of Southern Philippines to feel that they have a real, tangible stake in their own homeland and would mean that they are being given the opportunity to have control over their political lives for the first time.

The FAB also lays out the processes and platform in addressing the pressing issue of the ancestral domain claimed by Muslims, which is reflected in granting them a political and financial autonomy with an area to be created for the new entity call Bangsamoro. Hence, another feature of the FAB is the government now recognised the identity of the people in the area as Bangsamoro . This recognition would open up new dimensions for the people in Bangsamoro to explore. The ethnic diversity in Mindanao are deeply divided and need to unite as nation if the peace agreement is to be successfully implemented. The concept of Bangsamoro could be a galvanising factor in bringing people of Bangsamoro together and unite under the umbrella of Bangsamoro identity. This is very important especially during the process of the drafting of the Basic Law and the conduct of a plebiscite to determine the passage of the law and the areas for new entity. In long term, the acceptance of the concept of Bangsamoro will open the possibility for the reduction of ethnic tensions.

One of the key milestones of the FAB is the creation of the Bangsamoro Transition Commission (TC) which allows for public participation in the writing of the Basic Law and to determine the area that will be called the Bangsamoro. This marks the first step towards genuine and representative popular self-determination and self-government. The basic law-making also needs to undergo a legal and political due process and under the supervision of the third party monitoring team and a plebiscite for its approval. This would be a challenge, but this framework is centered on the reflections and promise by President Aquino that "he is willing to invest in peace but within his ability to deliver"; and Chairman Murad, saying that "don't give the reasons for the Muslims to call for independence."

As mentioned earlier, crafting of the Basic Law by the TC will be another milestone on the road leading to peace in Mindanao. Muslims are not homogenous, they are divided along the ethnic and linguistic lines, very clannish and territorial. Among them, there are those who are in the national mainstream and enjoyed the economic and political benefits. These groups will be a possible source of challenge to the Agreement, MILF leadership, and the government. In this regard, the TC has to come up with a document that takes into consideration the needs of every sector in Mindanao, including Christians, indigenous people and other minority groups. If not consulted properly and engaged during the drafting process, these interest groups may become spoilers and a direct threat to the political transition; even go as far as resisting the establishment of Bangsamoro. The Basic Law, therefore, has to be inclusive reflecting the need and aspiration of the broad base of the population to avoid marginalizing of some groups and prevent creating new problems that would culminate into ethnic conflicts.

In any post-conflict scenario, one of the most important elements is the process of normalization. Properly conceived and designed normalization process not only helps to

prepare the groundwork but also strengthens the final implementation of the peace treaty. The FAB recognises this, and it therefore provides the much needed provisions and mechanisms for the normalization process. It is important to note that the MILF is ready to undergo the phased decommissioning of its armed component and to transfer law enforcement from the military to the police force while the Philippine armed forces is to undertake a gradual reduction of its forces from the conflict zones. Moreover, there is a call to establish a joint action by the parties to control and reduce the proliferation of firearms and disbanding of private armed groups. There is also a provision for Transitional Justice which aims to correct historical wrongs of the past and reconcile the people for the future. Implementation of this key provision is essentially important to create stability in Mindanao, the Philippines and the ASEAN region. (As was seen in the process of normalisation in other conflict-affected countries such as Northern Ireland, the normalization process cannot succeed if other armed groups and private armies continue to exist, no matter how small, possess arms and with the willingness to use them. The disarmament of whole of Mindanao is therefore crucial to the success of the FAB and sustainable peace, but can only proceed from the basis of trust on both sides.)

As prerequisite to the lasting peace, it is imperative for Mindanao to be free from firearms proliferation and armed groups or the private armies. The multitude of armed groups in Mindanao will pose the most direct challenge to the implementation of the Comprehensive Peace Agreement and the legitimacy and credulity of MILF and even the National government. The MNLF, Abu Sayaff Group (ASG) and the BIFM, a splinter group of the MILF, could be dealt with on the grounds of ideology and strength, but there are so many private armies of Muslim warlords the parties have to contend with. These local clan and political leaders who frequently wield enormous political and economic influence could find ways and means to undermine the agreement if they feel that their position is threatened. This is where MILF should be inclusive, magnanimous and statesmanlike so as to be able to prevent these groups from becoming spoilers to the

peace process.

At present the FAB is still a framework of agreed principles and the parties have yet to finalize the FAB's annexes on power sharing, wealth sharing, and normalisation. Until the parties are able to agree on the details of said the annexes, the chances for the signing of the Comprehensive Peace Agreement between the government and the MILF will remain slim. Parties must work fast and hard and perhaps jointly, in order to settle the remaining issues in a timely manner to avoid situation of impasse. A breakdown in the talks at this crucial junction would create a political vacuum, and henceforth it will further heighten the perception of injustice among the Muslims, especially those of the MILF forces; and it might lead to a deeper distrust between parties. A failure at this stage may also develop into resumption of a full-scale conflict in the areas that have been affected by the violence of the past three decades. This would negate all the gains that parties have achieved in the last 12 years of hardfought negotiations. On the ground level the peoples' expectation are very high and most of them are looking forward for peace in the regions.

The road to peace in Muslim Mindanao is still long and full of uncertainties but not a surmountable. Politically there has been evident resolve demonstrated in the signing of the FAB. Subsequently, the President has signed the executive order for the creation of the Transitional Commission (TC) and the Joint Congress and Senate has already passed a resolution in support of creating the body. The TC is now operational, but without the Annexes and the Comprehensive Compact Agreements the process is yet to begin. To date, the process is waiting for finalisation and implementation.

Notwithstanding the above, even if the annexes have been agreed upon, the process is still vulnerable to legal challenges and political hurdles caused by spoilers of the peace process in Muslim Mindanao. These legal challenges should be met with the due diligence like what the government has employed in crafting the FAB. To foster the spirit of partnership and collaborative problem solving, perhaps the parties should conduct a

joint exercise to review the annexes and its contents to ensure implementation without hiccups. So far, the government took the extra mile in reaching decisions on the annexes that explains the current delay. The government feels that the annexes need to be able to withstand any legal challenge as to avoid the repeat of the rejected MO-AD in Aug of 2008, the consequence of which was armed confrontation between the government forces and a certain breakaway group of the MILF forces resulting thousand of people being displaced. It took the government a year to convince MILF to return to the negotiation table.

In the past, the Philippine government was rather skeptical about granting more power to the ARMM claiming that it has not been able to govern the area well. It has been plagued with corruption, injustice and an inability to response to local needs. If this feeling continues to exist, it will always create distrust that the autonomous government is not capable to govern. The human development indicator shows that the Muslim region is the poorest in the Philippines and has enormous social economic needs. There are debates at the national level whether the new agreement with MILF will bring about much needed changes and produce better results. Muslims in South too perceive that as long the political landscape in the region continued to be under the current political system, which is considered to be "Manila-centric", their province will never grow and develop. The ghosts of the past will continued to haunt the Muslims and their plights and grievances remain unanswered. This will be a major constrain for future Bangsamoro government in its relations with the National government. In the case of the FAB, there is a provision for the creation of the inter-governments body as a contact point between them. No matter how strong these perceptions may be however, they can only be dispelled if and when a concerted attempt at a lasting peace resolution is made and when both sides are able to expand their level of trust and minimise their level of pessimism.

Expectations after the signing of the FAB are high among the MILF fighters and Muslims

at large. What they expect to gain from the Agreement and the peace process is a working model for longterm Muslim selfgovernance, representation and accountability. There is also the question of the peace dividend and premium for laying down their arms have to be managed. For more then 40 years the Muslim guerillas have been in military fatigues and fighting for a cause. This has created not only a culture of acceptance of violence, but also a distrust of civilian institutions and civil options for conflict resolution and social management. It will be hard at first to create a generation of skilled technocrats, efficient administrators and committed public servants in a region that has not known peace or a functioning representative democracy for decades. These people now have to be readjusted to the new way of live as civilians. These will be the greatest of challenge to the MILF leadership and the government to so as that these people are not left behind and felt abandon as what has happened to the MNLF fighters after the signing of the Jakarta Accord in 1986. Without which, MILF will be challenged and the national government will be facing new armed group or groups. Expectation of the general population in the conflict areas too are equally high as they expected and even may demanded immediate changes and benefit as a dividend of peace.

However, two biggest challenges to the peace process are the timeline and the continuity in support from the national government after the term of President Aquino ends in 2016. Touching on the timeline, the whole package of the peace process must be completed within the next three years and before the May 2016 Presidential Elections. By then, the Bangsamoro elected government will be in place, and expected to be able to govern by itself. The current administration is putting all effort to ensure the peace process will push through before 2016. The MILF continues to maintain their strong commitment towards achieving peace through political negotiations as well as respects and holds the President in high regard, giving him their complete trust. But, critics are saying that the next President that come in office in 2016 may not be as supportive of the Agreement, and as the case of any new administration, it may not have the feeling of ownership and responsibility and they will roll parts of it back. For

the MILF, it is imperative that there is some semblance of permanency of the agreements signed between parties. Because of this reason that MILF always demanded that there must be a constitutional change or amendments in the Constitution as to give allowances for the basic law to be entrenched in the country's charter. Entrenchment of peace agreements and /or laws governing asymmetric autonomies is a measure which has been successfully been applied in many countries. The results of the May 13, 2013 mid - term elections will be an early test case. The President needs a strong and continued support in the House and the Senate to finalise his peace agenda, especially the passage of the Basic Law that will eventually lead to the realisation of the real and meaningful autonomy for the Bangsamoro .

Optimism entails that there are windows of opportunities and openings for peaceful resolutions of conflicts could be worked out. The framework and the foundation have been set. Above all, both President Aquino and Haj Murad, the MILF' s Chairman are very committed towards the political solutions to the Muslim Mindano Questions. In the present context, the FAB was crafted in very advantageous points, of a popular and committed President, a well-established peace architecture and well supported by the International community. Parties too have come to recognise that they are not adversaries embroiled the conflicts but rather partners searching a political solution to the Muslim Questions. On this score, I see no reason as why a final agreement could not be reached. Once annexes are finalised, the parties need now to move fast to make the various agreed bodies and mechanisms in the agreement to operationalised.