

Focus on Mindanao

Southern Philippines Conflict: Violence to Intensify as Land and Territorial Disputes Worsen

Sunday 26 October 2008, by [GUTIERREZ Eric](#) (Date first published: 26 October 2008).

Contents

- [A land conflict more than \(...\)](#)
- [Building the Substantive \(...\)](#)
- [A tedious process of settlemen](#)

The failure of peace negotiations is expected to intensify violence in the southern Philippines, not just between government troops and separatist Muslim rebels, but moreso between armed civilians from different sides, private militias, armed politicians, and plain bandits - all digging in to stake their claims on contested land and territory in restive Mindanao.

After Manila suspended peace talks with the Moro Islamic Liberation Front (MILF) last August, skirmishes between government troops and the rebels have spread, killing over 200 combatants and civilians, and displacing over half a million inhabitants, according to the International Committee of the Red Cross. The rebel leadership has ordered its field commanders to actively defend its base areas and "revive the struggle for self-determination". The Manila government, in response, intensified ground and air assaults on known rebel lairs, vowing not to surrender an inch of territory to the separatists. Meanwhile, private militias are equally starting to square off again with each other, significantly increasing the stakes in the conflict.

Ironically, this new round of fighting was triggered just as a breakthrough was achieved in the peace negotiations. Government and rebel negotiators finally agreed on a draft, under a Malaysian-brokered deal, on what will constitute the "territory" that the Moro separatists can regard as their ancestral domain. This is a prelude towards setting up a judicial system that can work to settle conflicting land and resource claims among natives and settlers, as well as historical grievances that are the root causes of the decades-old conflict. But settler-politicians, worried about the implications of the deal on their land claims, questioned the draft agreement's constitutionality and asked the Supreme Court to intervene. The Court responded last August by restraining government negotiators from entering any agreement, just a day before the document was to be signed in Kuala Lumpur. Embarrassed by the turn of events, Manila subsequently disbanded its peace panel and called off all negotiations indefinitely. Expectedly, fighting immediately ensued on the ground.

A land conflict more than a religious war

Conflict over land, more than religious or even ethnic issues, has proven to be the more important

driver of the southern Philippines conflict. At the core of this complex conflict is a highly skewed distribution of ownership and control over land - brought about since the early 1900s by a series of state-directed land development policies that effectively "minoritized" and impoverished the original indigenous communities. These indigenous communities are not exclusively Muslim - many are Christian as well as lumad (animists). What poisons any fundamental solution to the conflict are the political maneuvers over land, oftentimes dressed up in religious or ethnic terms to rally around the targeted support. It was the land question that the government and MILF peace panels were finally starting to settle, until they were blindsided by those opposed to any settlement - the 'usual suspects' that have used the same tactic before of inviting Supreme Court intervention to political negotiations that they have effectively chosen to ignore and undermine. More than anything else, national and international attention need to be focused on these political maneuvers over land, and the behaviour of the key players understood. Two earlier peace agreements - the 1976 Tripoli Agreement brokered by Libya and 1996 Peace Agreement brokered by Indonesia - have similarly unravelled due to the same disputes as to what constitutes the Moro area of autonomy as well as over the conflicting property claims of natives and settlers.

In 1976 at the height of the war, the Moro leadership - as yet still united under the Moro National Liberation Front (MNLF) - were forced by the diplomacy of Islamic countries (themselves concerned about their own secessionist movements) to drop the call for independence and accept autonomy instead. They signed a peace agreement in Tripoli, Libya, with the understanding that a single autonomous area under a unified administration will be declared immediately for the original 14 provinces and nine cities covered by the deal. But the Marcos government, at that time a dictatorial regime ruling by presidential decree, maneuvered to "tie its hands" by constitutional requirements - a fake constitutionalism that it wantonly disregarded whenever convenient. Marcos instructed the chief government negotiator, Defense Undersecretary Carmelo Barbero, at the last minute, to include one last text in the agreement - "that the Philippine government shall take all necessary constitutional processes for the implementation of the entire agreement." This last-minute amendment meant that all decisions entered into would be subject to ratification by plebiscite. This was Marcos' ace in his gamble during the negotiations. With his control of the state machinery and near-perfect electoral manipulation, any commitment or promise to the MNLF could be reversed with ample legal justification.

Thus, no sooner had the ink dried on the document that the MNLF started to protest the implementation of Manila's version of autonomy. Over MNLF objections and its effective pullout from the agreement, a plebiscite was still held in April 1977. Only 10 provinces ratified the agreement, which were further subdivided by Manila into two autonomous regions. By this time, Manila has regained diplomatic footing and appeased conservative Islamic capitals by approving the Code of Muslim Personal Laws that established Shariah courts in the Philippines' national judicial system.

Having lost the momentum and political initiative, the Moro leadership split into two. One wing went on to carry the name Moro National Liberation Front under the secular leadership of Nur Misuari, the key rebel negotiator of the Tripoli Agreement. The other wing, led by Islamic scholar Hashim Salamat and other religious leaders, called itself the "New MNLF", but later on in 1984 consolidated into a separate organization that called itself the Moro Islamic Liberation Front. The MILF had a nationalist as well as a religious agenda, years before militant Islamic fundamentalism became well known.

When Marcos was deposed in Manila in 1986, the new government of Corazon Aquino immediately conducted peace negotiations with the Moros. The MNLF and MILF initially agreed to negotiate jointly, but eventually parted ways after the Aquino government chose to recognize only Nur Misuari as the rebel spokesperson. Like Marcos, the Aquino government had its own unilateral autonomy

plan. It created a Mindanao Regional Consultative Commission in 1987, and submitted a new autonomy bill to Congress. In 1989, Congress passed Republic Act 6734, which created the Autonomous Region of Muslim Mindanao (ARMM). In the plebiscite for the new law held in November 1989, only four provinces opted for autonomy. The bitter denunciations from the MNLF and MILF remained unheard and their boycott of the plebiscite was ignored. The rebels were handed a *fait accompli* by Manila: negotiate on these terms or face war. With waning political support for their struggle, the MNLF chose to negotiate anew, while the MILF went on to focus on rebuilding its mass base.

In 1996, a new Peace Agreement brokered by Indonesia was signed by the MNLF and the Ramos government, with the MILF quietly observing from the sidelines. This agreement met similar complications on territory and property issues. As the executive branch of government negotiated with the rebels, Congress and local politicians took the lead in opposing any settlement with the Moros. Congressional hearings were convened, and political 'roadshows' were held particularly in those areas of Mindanao where settler restiveness was highest. The underlying concern expressed in the public hearings and court petitions was how property disputes were to be settled in a Moro-administered autonomous government.

In August 1996, weeks before the new Peace Agreement was to be signed, politicians that included six senators and over 50 Mindanao congressmen and governors petitioned the Supreme Court to nullify any agreement to be entered into with the rebels. But the executive was able to avoid Supreme Court intervention by maintaining that no new law or budgetary allocation has been created. The executive branch merely recognised, through an "executive order", the so-called Special Zone of Peace and Development (SZOPAD) - the name given to the original 14 provinces and nine cities claimed as the Moro homeland. Any expenditure was to be charged exclusively to the Office of the President - budgetary allocations that have already been approved by Congress and which the President has the prerogative to dispense with.

But soon, the expenses for three bodies created took its toll on the executive. First was the five-member quasi-executive Southern Philippines Council for Peace and Development (SPCPD) which oversaw the implementation of development projects in the SZOPAD. The second body was the 81-member quasi-legislative Consultative Assembly (CA), which was to provide the policy guidance. And the third was the administrative workhorse called the secretariat. Seven months into the implementation of the new agreement, the three bodies remained essentially powerless and unable to make any impact. The 1996 deal quickly entered a state of political and administrative stalemate. Meanwhile, Misuari who took over the regional government of the much-diminished ARMM, saw himself outmaneuvered again for a second time. Out of frustration at having been effectively marginalized, Misuari and his primarily Tausog base eventually staged a pocket revolt in their home province of Sulu. Misuari was subsequently arrested and put in jail.

Also, the commitments of the Ramos government were simply ignored when a new administration under President Joseph Estrada was elected in 1998. The bodies established to start the long and tedious process of peace settlement were quietly abolished. Within a year, Estrada declared all-out war against the MILF - which has decided consistently not to lock itself into any agreement with Manila, and which concentrated its efforts on grassroots base-building.

Building the Substantive Agenda for a Settlement

The MILF has taken a long-term approach in its negotiations with Manila. They see themselves more as a movement than an insurgent army; as such their efforts are focused on building mosques and

consolidating the communities around it; they train teachers for their madrasah schools as much as they train guerrillas for combat; they seek to strengthen Islamic values and understanding of the Koran. They have implemented agricultural extension programs, as well as food trading schemes. They are in no particular hurry or face any deadline. Their program of struggle is a 50-year comprehensive plan adopted in 1980 that includes, for the most part, political and social institution-building in a fragmented Mindanao society. Despite being painted as 'fundamentalists', the MILF has actually displayed more flexibility in discussing short-term issues like ceasefire and de-escalation of conflict. It has chosen to discuss disarmament and demobilization, because it remains confident that in the long-term, its grassroots approach to Islamization and an independent Bangsamoro state will eventually bear fruit.

It is to the MILF's credit that a more substantive agenda - one that goes beyond the short-term cessation of hostilities and disarmament - has been discussed in its series of on-off negotiations with government that started in 1996 after the agreement with the MNLF was signed. As early as 1997, before the Estrada administration took over, it sent government a position paper that enumerated nine substantive issues that need to be discussed and resolved if a fundamental settlement to the Mindanao conflict is to be found. The nine are:

- The ancestral domain claims of Muslims and highlanders in Mindanao
- The displacement of landless Bangsamoro peoples
- The destruction of properties and assistance to war victims
- Human rights violations
- Social and cultural discrimination
- Corruption
- Economic inequality
- Exploitation of natural resources
- Agrarian reform.

Since it decided to engage Manila in negotiations, the MILF has faced a military that appears to be pre-empting a political solution through an aggressive but well-calculated containment. But the peace panel of the Arroyo administration - led by a retired general Rodolfo Garcia, and recently overseen by a peace adviser who was once the AFP Chief of Staff, Hermogenes Esperon - appears to have now opened itself to a negotiated settlement. The conflict has taken long enough - some two generations now, and the practicality of seriously resolving the root issues was just commonsensical. Unfortunately, war-mongering settler politicians and opponents of the extremely unpopular Arroyo resorted to the standard tactic of stalling any agreement. They went again to invite Supreme Court intervention, and this time, they got their restraining order. Yet again, what could have been the beginning of a tedious, longer-term but nevertheless substantive process for settlement has been destroyed by interests whose idea of peace seem to be only that which grows out of superior firepower.

A tedious process of settlement

The peace panels were on their way towards laying down the first of many stones for the foundation-building of an effective state in the war-torn areas of Mindanao. The biggest and longest-running fiction in Mindanao is the existence of effective state institutions. True, there are politicians periodically elected, budgetary allocations passed, and a live bureaucracy in existence. But what is not being said is that state functions remain only inside capital towns behind military barricades. More mayors, for example, conduct their business of government inside the relative safety of the capital towns - Cotabato City, Jolo, Zamboanga City, Marawi, even in Iligan City. Civil registries are maintained in their private houses in these capitals for the simple reason that in-site municipal halls and local government offices could not be secured.

But the most important component of such situation is the fictional justice system. Despite the best efforts of government to establish and make it work, the justice system in the war-torn areas remains at best a façade. Judges have been kidnapped, hence no right-minded justice of the peace would accept being assigned to the troubled spots - ironic because that is exactly where they are needed to resolve disputes. No credible land registry exists - an authentic, officially numbered land title can be secured for the right price in downtown Marawi or Cotabato. Hence, no property right is ever secure. Life and liberty are protected not by state apparatuses, but by the capacity of local people to strike back and retaliate. Where the state is absent, what passes off as 'government' are essentially privately-run enterprises. It is in this context that the modern-day entrepreneur in violence emerges.

Entrepreneurs in violence are the characters of Mindanao's troubled history whose capital is not money or any other asset but a capacity for violence. They can be bandits, like the infamous Norberto Manero (Kumander Bucay) - a Christian cannibal; or the diminutive Galib Andang (Kumander Robot) who became a multimillionaire Muslim and local Robin Hood from his earnings from kidnapping. They can be politicians too - former bandits like Manero and Andang - who decide to seek the formality of being officially "elected". They can even be military commanders, out to make the most from their short-term tour of duty in the various areas. Or they can be former rebels too who get burned out with their lofty ideals and use their capacity for violence to be private players.

The peace panels were on their way towards re-building a more credible justice system. First, they have resolved to settle what would comprise the territory. Then, they discussed the setting up of juridical entities. The first task of these juridical entities could be the reconstitution of land titles. Wherever there is a dispute, they can start a process for hearing each case, square meter by square meter. Original land claims will be honoured, along with claims of settlers who have invested time, labour and resources on those lands. The bottom line is - a functional not fictional justice system is necessary to resolve the root disputes and conflicts in Mindanao. This functional justice system is what the opponents of the peace agreement have just torpedoed. Without it, the enforcement of property claims will continue to be the private enterprise of entrepreneurs in violence.

P.S.

* From Focus on the Philippines — October 2008.

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