

# Mindanao (Philippines) - Bangsamoro Basic Law: Critical Support, Longer View

Friday 26 December 2014, by [SANTOS Soliman, Jr](#)

This is a much condensed as well slightly updated version of a longer paper “Bangsamoro Basic Law: Step Forward on a Longer Road to Peace.” [1] These are written as Congress has started its deliberations on the proposed BBL that seeks to establish a new autonomous political entity called Bangsamoro that would replace the “failed experiment” and “unacceptable status quo” which is the existing Autonomous Region in Muslim Mindanao (ARMM). This purports to implement the 2014 Comprehensive Agreement on the Bangsamoro (CAB) that is the culmination of peace negotiations between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). Given the space constraints with this condensed article, we shall go straight to the most critical points relevant to the proposed BBL.

## **1. How are we to view the BBL or more precisely the *proposed* BBL now before Congress?**

It’s complicated, but this refers not only to its substantive content. It is made more complicated by what is not in its text or substantive content but also by its context and its place or role in the overall Mindanao peace process (and its various peace agreements) and in the solution of the Bangsamoro problem. Ultimately, the latter has to be the standard or lens for viewing the BBL. This is a decidedly strategic, larger and longer view of the BBL than just its substantive content. In this way one might see the BBL as **a step forward on a longer road to peace.**

After an already long and winding road to peace spanning so far more than 17 years (with the MILF, but 39 years for the Moro National Liberation Front counting from the first Jeddah peace talks in January 1975), the “agreed version” of the proposed BBL — now House Bill (HB) No. 4994 and Senate Bill (SB) No. 2408 — **represents the most developed level so far of a joint Filipino-Moro consensus measure to solve the Bangsamoro problem.** Having come this far with the proposed BBL, it is **the best or at least most feasible legislative measure moving forward**, while under the remainder of the Aquino administration till mid-2016, to address the Bangsamoro problem and secure peace in Muslim Mindanao - both of which objectives may be said to be in the national interest.

**For this reason, the proposed BBL deserves the support, or better still *critical support*, of all peace-loving Filipinos, not to mention Moros.** The provisions on Wealth Sharing and Power Sharing for the Bangsamoro people in the 2012 GPH-MILF Framework Agreement on the Bangsamoro (FAB) and its Annexes (which the BBL is supposed to implement) make for a better deal for them than did/does the 1976 Tripoli Agreement and the 1996 Final Peace Agreement (FPA) with the MNLF as well as Republic Act (RA) No. 9054, the Second Organic Act for the ARMM. The former also addresses, much better than the latter does, the concern of Normalization, including Decommissioning a.k.a. disarmament and demobilization. Part of critical support for the proposed BBL is to improve it, such as notably for the “full inclusion of the rights of indigenous peoples” therein. The ongoing Congressional deliberations should be taken as an opportunity for public discussion and education not only on the BBL but also on the Bangsamoro problem and the Mindanao peace process.

2. Be that, as it may, the MILF itself in a significant September 2014 editorial of its website *Luwaran* has said that **“solving the Bangsamoro Question or Problem will not be fully addressed by the BBL alone even if it is passed by Congress.”** It goes on to reveal what may have escaped the previous attention of most: that the proposed BBL is based only on the FAB, its four Annexes and the Addendum on Bangsamoro Waters, and thus not also on the other six component agreements of the CAB - “thereby leaving other parts of the CAB not yet addressed or unimplemented.” But that “This will be done through the other mandate of the Bangsamoro Transition Commission (BTC) which is to make proposals to amend the Constitution...”

With the proposed BBL, it is clear that the MILF has pragmatically acquiesced to the GPH position for a BBL “within the flexibilities of the Constitution.” This obviously involved **a judgment call on the part of the MILF that this is what is politically feasible under the Aquino administration and that it is better to have this BBL now as a building block** rather than have nothing to show or the “unacceptable status quo” of the “failed experiment” ARMM. At the same time, this **converged with President Aquino’s avowed historical legacy stake** in the GPH-MILF peace process.

If we look well at the premise of the proposed BBL which is to replace the “failed experiment” and “unacceptable status quo” which is the existing ARMM, the constitutionalist Fr. Joaquin G. Bernas, S.J. writes: “An important point to remember is that the ARMM is **governed by two organic acts**: the 1987 Constitution and the Organic Act for Muslim Mindanao.” **The BBL as an organic act to govern the new Bangsamoro entity would replace only the latter (RA 9054) but not the former (the Constitution).** In other words, the constitutional underpinning of “the unacceptable status quo” which is the ARMM would still be there, even as its statutory underpinning would be repealed and replaced by the BBL. The new Bangsamoro entity under the BBL will provide at most only **a quantitative but not a qualitative “liberation” from the overarching highly-centralized unitary system of government** of the Philippines. It is actually this constitutionally entrenched unitary system of the Central Government that is the bigger “unacceptable status quo” that, for the longest time, has been the main fetter to the legitimate wishes of the Bangsamoro people to govern themselves by “establishing a system of life and governance suitable and acceptable to the Bangsamoro people” - this kind of system itself being **the MILF’s own perceived and articulated core “political and lasting” solution to the Bangsamoro problem** when it first posed in January 1997 the single peace talking point “To solve the Bangsamoro problem.”

Unfortunately, one effect, even if unintended, of the BBL is to postpone necessary constitutional amendments. The general or prevailing thinking would be to give the BBL and the new Bangsamoro entity a reasonable time or period of testing before resorting to constitutional amendments. On the other hand, some observers have noted that the proposed BBL has already had the unintended consequence of “waking up” the federalist movement which is mainly being generated from Mindanao. They say that the new Bangsamoro entity being created through the BBL is showing the way for future charter change that would loosen the strictures of a unitary state. A shift to a federal state would indeed necessitate charter change. Ironically, this particular political-constitutional reform might even overtake the necessary constitutional amendments to complete the political solution of the Bangsamoro problem.

3. The short GPH-MILF road map to peace till mid-2016 envisions a very short transition process highlighted by a transition mechanism in the form of an appointed MILF-led Bangsamoro Transition Authority (BTA) that is estimated to serve as the interim Bangsamoro Government for likely only one year until the duly elected regular Bangsamoro Government takes office. By any standard, **this is an extremely short transition period that would not serve its standard purposes** of institution-, capacity- and unity-building necessary to adequately prepare the ground for self-government. And

this preparation to govern should include adequate testing and tempering against the corrupting influence and arrogance of power.

There are thus suggestions of extending the transition period of the BTA say to the next scheduled synchronized elections in 2019. But there may be **an alternative way of looking and going about the transition**. If the election of the first Bangsamoro Government (BG) would not be postponed to give more time for the transition to ripen under the BTA, then one alternative may be to treat the period/s of the first BG or the first two BGs (together presumably from 2016 to 2022) *as still part of the transition*. Before the end of this longer transition period, it can be expected that the time would also already be more opportune for charter change to accommodate “out of the box” arrangements to complete the solution to the Bangsamoro problem, including enabling a new political entity with *a qualitatively higher and better degree of self-determination* for the Bangsamoro people. This would entail readiness of the sovereign Filipino people to “change the Constitution in any way it wants... for the sake of peace.”

When the time for that idea comes, ideally it should be the Bangsamoro people themselves who should draft the necessary constitutional amendments to complete the solution to the Bangsamoro problem, of course still subject to the constitutional process of ratification by the Filipino people. A more inclusive and representative multi-stakeholder body than the MILF-tilted BTC will be needed to work on proposals for such constitutional amendments. As it is, the BTC shall cease to exist upon the enactment of the BBL. Just as it will take time for the idea of constitutional amendments to ripen, so too will it take time to bring together **a more inclusive and representative multi-stakeholder Bangsamoro constitutional convention** – much like “a negotiating roundtable at which all stakeholders, armed and unarmed, represented themselves.”

4. But of course **the Bangsamoro problem is not only a constitutional problem of Bangsamoro self-determination; an increasingly major aspect of it is the political problem of Bangsamoro unity**. Sociology professor and newspaper columnist Randolph S. David had long said it well: “It is difficult to imagine an experiment in Islamic self-determination succeeding against a background of Moro disunity. While such disunity may have been instigated by Manila’s imperial governments in the past, no amount of constitutional accommodation by the center can solve this now for Muslim Mindanao. Self-determination requires that the Bangsamoro people imagine themselves as one nation.” This requirement has become more urgent as demonstrated by the Sabah and Zamboanga standoffs of 2013 (which represent the peace disgruntlement of the Sulu sultanate remnants and the MNLF Misuari group) and by the eruption of fighting with the MILF breakaway Bangsamoro Islamic Freedom Fighters (BIFF) right after the signing of the last FAB Annexes in January 2014.

Steven Rood, who is The Asia Foundation (TAF) representative in the GPH-MILF peace processes, considers the Zamboanga Tragedy as a “pivot point for the Mindanao peace process.” Firstly, it aggravated the long-standing anti-Muslim bias among the Filipino Christian majority which has adverse bearing on public opinion about concessions to the minority Bangsamoro people arising from the peace process. Secondly, it highlighted the Bangsamoro disunity problem, exemplified by the MNLF and the MILF, about the peace process, with long-time MNLF Chairman Misuari as the most vocal oppositor to the new deal with the MILF. One might say, this is a different kind of “Moro-Moro,” an intra-Moro dynamic where Moros are sometimes their own worst enemies. All is not quiet on the Western front of Muslim Mindanao.

It has become increasingly clear that **Bangsamoro unity, with MILF-MNLF unity as the litmus test, should already be treated as a goal itself of the peace process and no less than part of solving the Bangsamoro problem**. The better deal gains for the Bangsamoro people in the GPH-MILF peace process could come to naught if the MNLF problem (to put it bluntly) is not solved.

Better to address this problem now early in the transition rather than as a bigger problem later down the road. **This urgent task of Bangsamoro unity should have its own road map which of course should interlink with the peace road map, and thus contribute thereto.** Even road maps can be works in progress. If there are to be institutions and mechanisms of Bangsamoro self-governance, there too should be institutions and mechanisms of Bangsamoro unity.

The quality of governance - of autonomy, peace and development — will be strained by lack of cooperation and support, and worse by continuing armed hostilities. Commonalities in agenda and a better peace deal will not be enough. Better fraternal organization relations and a sense of stakeholdership and ownership will be needed. This will be **a test of Bangsamoro leadership and statesmanship** on the part of the MILF. Even as it moves forward with its Bangsamoro agenda, it will have to find a way to reach out to and constructively engage the MNLF Misuari group and the BIFF - both of which have gone back to the “original position” of Bangsamoro independence, whether rightly or wrongly, whether truly or falsely.

5. If one would study history (so as not to be condemned to repeat its mistakes), a legitimate case for Bangsamoro independence can be made. There is of course a difference between independence through armed struggle and independence through non-armed struggle. In Philippine history, the former was achieved from Spain, while the latter was achieved from the United States. What will it be for Bangsamoro history? The jury is still out on this, as it were. But the current standard bearer of the Bangsamoro cause, the MILF, has clearly opted, at this juncture of history, for a non-independence solution through peace negotiations that envision subsequent parliamentary struggle. Whatever “the ultimate aim” is, even for an “independent Islamic state,” indeed it may be said as a most level-headed MILF leader has said **“Would it be politically taboo if you aspire for anything through democratic means?”** One can hardly argue with peaceful, civilized, and democratic means of solving conflict or achieving political objectives.

It will likely take some more years (decades?) for the Filipino body politic to develop the political culture and maturity to be able to peacefully and civilly allow the Bangsamoro people to undertake the kind of credible democratic exercise like the recent Scotland and Quebec referendums for independence. Incidentally, the “No” votes won, but only closely, in both those referendums. But of course it could be different the next time around because of an already substantial bloc of support for independence in both cases. What is particularly notable, and perhaps more important for such exercises, was the mature respect shown by the “Yes” losers for the people’s will. Perhaps the Bangsamoro’s envisioned experience in a chosen parliamentary or ministerial form of government based on genuine political parties will contribute good examples and lessons for “the rejuvenation of the political culture in the country.” I believe it would help to have **more strategic thinking for the longer road ahead to peace - or to the full solution of the Bangsamoro problem.** This problem is so intractable that it may still be around for another generation. In the end, we all hope for a better judgment of history and of future generations.

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**P.S.**

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peace process, with several books on this, inc. *The Moro Islamic Challenge: Constitutional Rethinking for the Mindanao Peace Process* (UP Press, 2001; with 2<sup>nd</sup> printing, 2009), where he has long made the first full argument for charter change for that peace process. He is presently Presiding Judge of the 9<sup>th</sup> Municipal Circuit Trial Court (MCTC) of Nabua-Bato, and Acting Presiding Judge of the Municipal Trial Court (MTC) of Balatan, both in Camarines Sur.

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## **Footnotes**

[1] See on ESSF (article 33494), [Mindanao \(Philippines\) - Bangsamoro Basic Law: Step Forward on a Longer Road to Peace](#).