

The Philippines: Running in Place in Mindanao

I. OVERVIEW

Six months after the collapse of autonomy negotiations between the Moro Islamic Liberation Front (MILF) and the Philippines government, low-intensity conflict continues but moves are under way to resurrect talks. It is not clear whether negotiations will resume and if they do, with what agenda. Certainly no settlement is likely during the remaining tenure of President Gloria Macapagal Arroyo; the two sides are too far apart, the potential spoilers too numerous, and the political will too weak. The best that can be hoped for is progress around the edges.

The priority should be a ceasefire in central Mindanao that would allow displaced civilians to return home. It would also help to strengthen the structure for talks to ensure that if and when another agreement is reached, it will have a better chance of surviving than the ill-fated Memorandum of Agreement on Ancestral Domain (MOA-AD or MOA) that was dead on arrival in August 2008. Two measures already underway deserve more attention: consultations that would allow potential spoilers to raise concerns in a way that could feed into the negotiations, and development aimed at strengthening human resources in the proposed autonomous region.

Even if these aims were achieved, the task of reaching a formal agreement is daunting. A Supreme Court ruling in October 2008 that the MOA was unconstitutional makes it impossible to go back to the August text, even though the MILF continues to insist it is a “done deal”. If it decides to resume talks, the MILF will have to decide whether it will go for a revised agreement on land or a final “comprehensive compact” that incorporates key principles from the MOA. Publicly, the MILF insists that a separate agreement on land must come first, but if the right formula were found, it might be more flexible.

None of the political obstacles that killed the MOA have been removed; if anything, positions have hardened. The Supreme Court decision effectively makes constitutional change a prerequisite for any power-sharing arrangement between Manila and the future Moro homeland – known as the Bangsamoro Juridical Entity

(BJE). An arrangement that the current constitution would permit would be unacceptable to the MILF because it would entail too much central control; the MILF, to be credible to its own supporters, has to secure greater self-government and control over more land and resources than was obtained in a 1996 agreement by the Moro National Liberation Front (MNLF), the group from which it split in 1981. President Arroyo’s opponents believe she would exploit any effort at “charter change” to try and extend her own term in office, so no moves in that direction are even thinkable until after a new president is elected in May 2010. At present, none of the possible contenders seem to consider the peace process a priority.

Even then, there will still be conservatives worried about dismemberment of the republic, powerful non-Muslim groups in Mindanao with no desire to come under Moro control, and a military convinced it can crush the guerrillas. The Arroyo government made no effort to bring these groups on board while the MOA was being negotiated, nor did it make any effort to defend the agreement reached by its own peace panel. It is unlikely to have much political will to deal with the spoilers as the 2010 elections approach, and it is questionable whether any successor government will have more – but a contact group of interested donors could give it much-needed incentives. Consultations and dialogues are not going to help unless they are focused enough to provide creative new options to negotiators or concrete reassurances to nervous non-Moros.

In the meantime, military operations against three “renegade” MILF commanders continue in a large swathe of central Mindanao, with relatively few deaths but large-scale displacement. The military says the operations will cease when the three, whose units were involved in attacks on civilians, are captured or the MILF turns them in; the MILF says it should be up to an international monitoring team to determine whether the men were responsible for ceasefire violations. Both sides face internal pressure to take an uncompromising stance, but there are several ways out of the stalemate, and a good mediator could find them.

Forward movement on some of the side issues should lead to no illusions, therefore, that a final settlement is

in sight but it could build confidence and improve the atmosphere for negotiations. Getting a ceasefire in central Mindanao would be an important achievement in humanitarian terms alone.

II. POLITICAL DEVELOPMENTS SINCE THE BREAKDOWN

After the government's dissolution of its peace panel in September 2008 and the Supreme Court ruling in October, the Arroyo government announced a "new paradigm" for peace.¹ According to Executive Secretary Eduardo Ermita, it would move from a focus on "dialogue with the rebels to one of authentic dialogues with communities and stakeholders" and any negotiation with the MILF "will be in the context of disarmament, demobilization and reintegration (DDR)".² This was widely but probably mistakenly interpreted in the media as meaning the government would only resume talks if the MILF disarmed first, which was not going to happen.

The breakdown of talks sparked an unusually high-level diplomatic reaction. On 15 September, the Council of the European Union issued a statement noting its concern over the escalation of violence and possibility that "civilian militias may become embroiled", condemning attacks on civilians, and urging both sides to show restraint and return to the negotiating table.³ In early November, Robert Hannigan, security adviser to British Prime Minister Gordon Brown, visited Mindanao, bringing lessons from the Good Friday agreement that ended the Northern Ireland conflict.

Despite these initiatives, the International Monitoring Team (IMT) led by Malaysia, seen as a critical bulwark of the peace process, left Mindanao on 30 November, despite a formal request from Manila to stay. Its mem-

bers had been frustrated by their inability to function effectively, especially after the resumption of hostilities in Maguindanao and Lanao which meant they could no longer travel to the areas they were supposed to be monitoring. A few members of the team pulled back to Manila; most went home.

The local ceasefire monitors, the Coordinating Committees for Cessation of Hostilities (CCCH), remained intact after the IMT departed.⁴ A senior official on the government side said it continued to be fully functional in areas covered by sixteen of the nineteen MILF base commands. The MILF heartland, however (roughly covering the provinces of Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sultan Kudarat and Sarangani), was formally declared a no ceasefire zone and became the focus of the military's "punitive operations" against "lawless" MILF forces.⁵

As the end of the year approached, the government, very conscious of the negative international publicity it had received as a result of the humanitarian situation and the plight of the displaced, as well as the Malaysian withdrawal, began a flurry of moves designed to show its commitment to peace. In November, it decided to reconstitute its peace panel. On 2 December, it named Foreign Affairs Under-Secretary Rafael Seguis as the new chair. A veteran diplomat and negotiator, he is also said to oppose to any outcome that would require constitutional change.

Additional members of the panel were announced on 23 and 24 December, including two who had a reputation, according to one well-placed government official, for being "anti-Moro".⁶ One is the former mayor of General Santos City in Mindanao, Adelbert Antonino, who was appointed as the representative of Christians.⁷ The second is Tomas Cabili, Jr of Iligan City, Lanao del Norte, described in the press as a "lawyer-businessman". Both are from politically influential families in Mindanao.⁸ The other members are Ronald Adamat and Nasser Pangandaman. Adamat, an ethnic Teduray, was named to represent the *lumads*, or indigenous

¹ For background to the breakdown of the talks and the implications of the Supreme Court ruling, see Crisis Group Asia Briefing N° 83, *The Philippines: The Collapse of Peace in Mindanao*, 23 October 2008. For earlier analyses, see Crisis Group Asia Report N°80, *Southern Philippines Backgrounder: Terrorism and the Peace Process*, 13 July 2004. For additional Crisis Group reporting on the Philippines, see Asia Reports N°152, *The Philippines: Counter-insurgency vs. Counter-terrorism in Mindanao*, 14 May 2008; and N°110, *Philippines Terrorism: The Role of Militant Islamic Converts*, 19 December 2005.

² "Palace names 3 more panel members in talks with MILF", *Mindanews.com*, 24 December 2008.

³ Council of the European Union, "Declaration by the Presidency on behalf of the European Union concerning the situation in Mindanao", Brussels, 15 September 2008.

⁴ There is a CCCH for each side, one for the MILF, one for the government, with main offices in Cotabato and outposts in thirteen conflict areas.

⁵ Crisis Group interview, with member of the government side of the CCCH, Cotabato, 21 January 2009.

⁶ Crisis Group interview, Manila, 21 January 2009.

⁷ "Palace names 3 more panel members in talks with MILF", *Mindanews.com*, 24 December 2008.

⁸ Antonino is the husband of a former representative in the Philippines Congress and father of another. His wife was known an activist against the Autonomous Region in Muslim Mindanao (ARMM). Tomas Cabili's father was a long-time assemblyman and senator. He died in 1957.

people in Mindanao, many of whom were opposed to the Memorandum of Agreement (MOA). The Teduray, in North Cotabato, were particularly outspoken against it. Pangandaman, Secretary for Agrarian Reform and a Muslim, is the only carry-over from the earlier panel and was not known for his activism.

On 13 December, President Arroyo flew to Qatar, primarily to seek investment but also to suggest that Qatar could play a major role in the peace process, building on its role in Lebanon. Qatar by all accounts was eager to take part, but the MILF treated Arroyo's overture with some scepticism.⁹

On 26 December, the MILF issued a five-point statement, signed by its chair, Al Haj Murad Ebrahim, stating that before talks resumed, it wanted:

- international guarantors to ensure that both sides would implement any agreement reached;
- resolution of the MOA's status;
- return of the IMT in a way that would enable it to discharge its functions, including investigations of all violations since July 2008;
- cessation of all operations by the Armed Forces of the Philippines (AFP) against the MILF, "even in the guise of running after its three 'rogue commanders'"; and
- continuation of Malaysia as facilitator.

An MILF negotiator, however, later said these were not necessarily preconditions but rather issues that needed to be resolved.¹⁰

On 21 January, Arroyo appointed a new Presidential Adviser to the Peace Process (PAPP), former Philippines National Police commander Avelino Razon, to replace General Esperon.¹¹ The MILF was not enthused: "Always changing the peace team is one factor that hinders peace talks from prospering", said Muhagher Iqbal, the MILF's chief negotiator.¹²

On 22 January, Seguis left for Kuala Lumpur to try to persuade Malaysia to return as facilitator – but with a

change in terms of reference and possibly personnel. As of early February, no answer had been forthcoming.

In the meantime, high-level visitors continued to offer help and advice. Two men involved in the Northern Ireland peace process, Sir Jonathan Powell and Gerry Kelly, had meetings in Manila and Mindanao on 14-16 January, organised by the Geneva-based Centre for Humanitarian Dialogue, in what all sides appear to have seen as a useful visit. The message to the MILF was to keep channels open because one never knew when a breakthrough would occur. They stressed to the military that the Northern Ireland breakthrough came when the British military realised it could not achieve its aims through force. A senior Philippines government official, however, said he had recently held talks in Mindanao with AFP officers engaged in operations against the MILF, and "almost to a man, they thought that given a green light and enough resources, they could wipe them out...We have a long way to go".¹³

III. GETTING A CEASEFIRE IN CENTRAL MINDANAO

Even if a settlement is a distant prospect, an important short-term objective is to secure a ceasefire in central Mindanao where military operations are continuing against the MILF's "renegade" commanders, Umbra Kato of the MILF's 105th base command and Abdullah Macapaar alias Commander Bravo of the 102nd. A third commander, Aleem Sulaiman Pangalian of the 103rd, also named as a target of the operations, is less important.

The conflict is low intensity, and in many encounters, the two sides exchange fire without any casualties. In other hit-and-run clashes, neither side knows the other's toll. From 10 August 2008 through 7 January 2009, 42 soldiers, twelve militia members, and 101 MILF fighters were killed, according to the military's figures; many suspect the military death toll is much higher and that some of the MILF deaths are actually civilians.¹⁴ In late December, the number of displaced in evacuation centres was about 75,000, with an additional 230,000

⁹ "Qatar offers to broker RP-MILF talks", *Philippine Daily Inquirer*, 2 January 2009.

¹⁰ Crisis Group interview, Cotabato, 22 January 2009.

¹¹ Esperon was appointed head of the prestigious Presidential Management Staff (PMS) but even so, his removal was seen as a way of easing him out after the MOA debacle.

¹² "Esperon out, Razon in as new Peace Adviser; Dureza is new chief counsel", *Mindanews.com*, 21 January 2009.

¹³ Crisis Group interview, Manila, 23 January 2009.

¹⁴ "Arroyo orders 'peace panel' to press for rebel talks," *Mindanao Examiner*, 14 January 2009. The National Disaster Coordinating Council listed a total 163 deaths as of 24 December. If the army's figures are correct, it would mean that only nine civilians had died. Non-governmental organisation (NGO) sources have much higher figures of civilian casualties. See National Disaster Coordinating Council, "NDCC Update, Sitrep No.80 re IDPs in Mindanao", 29 December 2008.

displaced living elsewhere.¹⁵ Many had returned to their villages, but “they keep their bags packed, ready to flee when the next mortar hits”, according to one NGO worker.¹⁶

Murder charges have been filed against all three “renegades” for killings that took place in August. The government’s position is that the “targeted” actions will only stop if they are captured or if the MILF turns them in. The MILF argues that if the men committed ceasefire violations, these should be investigated by the IMT, which now no longer exists but may be reestablished. It also assured civil society groups it would undertake its own internal investigation, but while there are rumours this was completed in November, the results have never been made public.¹⁷

The government argues that the men are criminals, not merely ceasefire violators, and the MILF has shown neither the will nor capacity to deal with them. In particular, officials argue that between 8 and 12 August, the MILF leadership issued a written instruction to Kato ordering him to withdraw his men from North Cotabato, then sent a personal envoy, both to no avail. MILF leaders say they were not given enough time, and that eventually Kato did withdraw. An army officer in Cotabato said this was only because of military operations and not because of MILF instructions. In any case, officials in Manila say, it is now politically impossible to accept the MILF’s demand for an IMT investigation before the men are captured because the public wants to see them behind bars.¹⁸

If an investigation were to be held after their arrest, government officials say, it would more appropriately be carried out by the Ad Hoc Joint Action Group (AHJAG), a body created in 2002 to go after “law less” elements and thus distinguish criminals from insurgents. This is another non-starter. Not only would AHJAG’s mandate have to be renewed, since it expired in November 2008, but the MILF would never agree to designating the two men as criminals.

The two cases are very different. Kato, a respected *ustadz* (religious teacher) trained in Saudi Arabia with thousands of followers, is loyal to the MILF chair, Al Haj Murad Ebrahim; both are of Maguindanon ethnicity. By contrast, Bravo is a thug who does not listen to Murad and is from a different ethnic group, the Mara-

nao. The MILF has no interest in alienating Kato and cannot control Bravo.

The operations are producing nothing except more displaced and more Moro resentment of Manila. In one military officer’s view, they are actually counter-productive in counter-terrorism terms. Some MILF leaders, opposed to the presence of Indonesian and Malaysian jihadis, might be willing to turn them in, he said, especially given the bounties on their heads. But the “punitive actions” are restricting the movements of these leaders and thus their ability to track where the jihadis are.¹⁹

Others say regardless of how little the operations are achieving, they are an important way for the military to “let off steam”, and that Mindanao, as was the case with East Timor and Aceh for the Indonesian military, is where Philippine soldiers earn their promotions.²⁰ The official line is that Kato and Bravo committed serious crimes against civilians in July-August 2008, and the government has to show the people that it can protect them.²¹

The trick to securing a ceasefire is to find a formula that would allow both sides to save face. The MILF would have to restrict the commanders’ movements in a way that ensured they had no ability to mount operations. They may have already done this with Kato, according to one source, by pulling him back to an area near MILF headquarters at Camp Darapanan in Maguindanao. They cannot pull Bravo, an ethnic Maranao, into a non-Maranao area, and would have to find a way of identifying an area in Lanao where the same kind of restrictions could be imposed – a difficult but not impossible task.²²

A solution also would have to involve formal acknowledgment of the two commanders’ responsibility for attacks on civilians, but the government might be able to meet MILF demands for an investigation by a reconstituted IMT (perhaps with “technical advice” from a professional international human rights investigator) as long as the commanders were under some form of

¹⁵ Ibid.

¹⁶ Crisis Group interview, Cotabato, 21 January 2009.

¹⁷ “Where is Commander Bravo? Iligan officials ask”, www.mindanews.com, 14 January 2009.

¹⁸ Crisis Group interview, Manila, 23 January 2009.

¹⁹ Crisis Group interview, Cotabato, 21 January 2009. Two of the most wanted among the foreign jihadis, Malaysian Zulkifli bin Hir alias Marwan and Indonesian Hari Kuncoro alias Bahar, have been repeatedly rumoured to be moving around the Liguasan Marsh area while their better known colleagues, Dulmatin and Umar Patek, remain in Jolo.

²⁰ Crisis Group interview, Western diplomat, Manila, 23 January 2009.

²¹ Crisis Group interview, senior government official, Manila, 23 January 2009.

²² Crisis Group interview, senior Manila-based journalist, 23 January 2009.

physical restriction first. The MILF will insist that all reported violations by the military be investigated as well. It would be far simpler, of course, if both sides agreed on a ceasefire first and agreed to work on the issue of Kato and Bravo later.

The conflict shows no signs of spreading to other areas of Mindanao, but Basilan and Jolo are a question mark, since the military's pursuit there of the Abu Sayyaf Group (ASG) tends to push them into MNLF and MILF areas. This is where the abduction of three International Committee of the Red Cross (ICRC) staff in January might have larger consequences, if military operations against the ASG are stepped up as a result.²³

IV. STRENGTHENING THE FRAMEWORK FOR THE TALKS

As the Arroyo government struggles to get the structure in place for resuming talks, the question is whether anyone has given much thought to changing the major components and, if so, how and toward what end. Before the collapse of MOA, Malaysia was the facilitator and leader of the IMT, which also had small contingents from Libya, Brunei and Japan. A government peace panel – its negotiating team – reported to the Office of the Presidential Adviser on the Peace Process (OPAPP). Its MILF counterpart was led by chief negotiator Mohagher Iqbal. As noted above, each side also had its local monitors, the CCCH.

Arroyo's new peace panel has received lukewarm reviews. The MILF, which has kept its own team intact, would have preferred not to start from scratch with a whole new set of players. But as one of its negotiators said, "For us the composition of the peace panel is not important. The big question is, what's the agenda?"²⁴ That said, even one of Arroyo's advisers said it would have been better to have included at least one local government official from Mindanao who understands Moro concerns. One name that came up in many conversations was Muslimin Sema, mayor of Cotabato and chairman of the MNLF, who has good relations with both the government and the MILF

leadership.²⁵ But unless one of the five men just appointed drops out, it is unlikely that new members will be added. Chief negotiator Rafael Seguis has attempted informal meetings with MILF leaders but the MILF team has ruled out back-channel talks and "negotiations through the media", saying if talks resume, the points in Murad's 26 December statement need to be addressed first – at the very least, the government needs to make clear its position on the MOA.²⁶

Malaysia's role as facilitator may also be open to modification. President Arroyo said in January 2009 that she was inviting Malaysia back, as demanded by the MILF. But it was no secret that Manila was very unhappy with Dato Othman Abdul Razak, the chief facilitator. During the MOA negotiations, according to one source, Othman had "dictated the terms and pace of the talks". One of Seguis's tasks during his visit to Kuala Lumpur on 22-23 January was reportedly to see if Othman could be replaced and to renegotiate the terms of reference for facilitation.²⁷ The Malaysians want Manila to make clear where it stands on the MOA before responding. Not for the first time, the message the Arroyo government is conveying in the media that everything is on track is far from accurate.

The tension between Malaysia and the Philippines provides an opening to put together a structure that has a better chance than the last one of reaching a negotiated settlement that the public and Supreme Court will accept. One question is whether there should be "supplemental" facilitators, both to provide a buffer, in case political problems with Malaysia heat up, and to help sell any eventual agreement to a sceptical domestic audience. Many in the Manila political elite believe Malaysia is overly sympathetic to the MILF and has used the peace talks to further its own interests, particularly to undermine the Philippines' long-term claim to the eastern Malaysian state of Sabah. Asked if Malaysia would accept the invitation to return to the talks, one Philippine official said, "Yes, if only to spite us!" He

²³ Mary-Jean Lacaba, a Filipina, Eugenio Vagni, an Italian, and Andreas Notter, a Swiss national were abducted on 16 January 2009 in Sulu and as of early February reportedly were being held by a group loyal to ASG commander Alba der Parad. They were still in the hands of their captors when this briefing went to press.

²⁴ Crisis Group interview, Cotabato, 21 January 2009.

²⁵ Crisis Group interview, Manila, 24 January 2009. One person the MILF would have liked to see on the panel is Rodrigo Duterte, the controversial mayor of Davao, who has been supportive of a settlement but whose use of death squads in combating crime has given him an unenviable reputation for human rights abuse. Crisis Group interview, MILF members, Cotabato, 21 January 2009.

²⁶ Seguis met with Aleem Abdulaziz Mimbantas, the MILF's chair for military affairs, who in December issued a statement calling Seguis's appointment a "meaningful gift" to the Moro people. Other MILF leaders were less enthusiastic. See "Talks, not War, Key to Peace in South – MILF Military Head", *Daily Tribune*, 5 December 2008.

²⁷ Email communication to Crisis Group, Manila-based political analyst, 2 February 2009.

suggested that even if Malaysia agreed, the two countries would be on a diplomatic collision course, because May 2009 is the deadline for Malaysia to submit its “baselines” or sea boundaries to the UN. The baselines will include Sabah, and the Philippines will raise objections, making Malaysia’s role as facilitator somewhat awkward.

As of mid-February the only other country the Arroyo government was considering as an additional facilitator was Qatar, but probably for reasons that had little to do with the peace process. It had given no thought to any countries outside the Organisation of the Islamic Conference (OIC), in part because the original talks had begun under OIC auspices. But if persuading potential spoilers to accept an eventual agreement is a goal, then it might be worth thinking about a supplemental facilitator whose leverage that can be put to good use down the road. The European Union or one or two of its member states come up frequently as possibilities, but there is wariness from Manila about further internationalising the peace process, and from the MILF about drawing in countries that have a long history of support for the Philippines government or a problematic image in the Muslim world.²⁸ The more direct involvement of a few donor countries, either as supplemental facilitators or as participants in the IMT, however, might help meet the MILF’s desire for international “guarantors” of any agreements reached.²⁹

Another consideration in bolstering the structure for the peace process is how to strengthen the role of the IMT. A stronger mandate for investigations might produce a solution to the problem of Kato and Bravo that could then lead to a ceasefire. However, there would be little point in Malaysia returning as a facilitator, let alone discussing supplemental facilitators, if the MILF heartland remained off limits to a new IMT mission. But one senior military official on the CCCH said even in the areas where the ceasefire still holds, the international monitors are sorely missed. “We need a third party”, he said. “It’s like boxing without a referee”.³⁰

It would be worth looking in more detail at the mandate the IMT has had since its first mission in 2004 to investigate and rule on alleged ceasefire violations, and see if any modifications could be made that might increase the likelihood that violators would be punished. An NGO leader in Cotabato suggested it was

less a question of the wording of the mandate than how the IMT itself interpreted it; the first two IMT missions were more activist than the last two in monitoring troop movements, paramilitary activities and weapons transfers and taking preventive action.³¹ He suggested that a new IMT could usefully get the Philippines government to agree its findings should be made public, to help pressure both sides to accept its recommendations.

Instead of trying to strengthen the IMT’s security role, the government is talking about adding two other components, economic development and DDR. According to one official, this would both place the IMT fully within Arroyo’s new “peace paradigm” and help make the monitors more palatable to domestic critics.³² It may also be a bid for additional funding from international donors, particularly Japan, which has taken a strong interest in development in conflict-affected areas. But if development and DDR rest on getting a ceasefire and a settlement, adding new functions to the IMT at this stage seems unnecessary.

V. HEADING OFF SPOILERS

After the MOA collapsed amid outraged howls from various constituencies that they were never consulted, Arroyo said a new peace process would be based on “authentic dialogue” with people in conflict-affected areas. As of late January 2009 there were two “consultations” being planned, but no one had given much thought to how the results would feed into the formal peace process. If done well, these consultations could be used in a strategic plan to head off potential spoilers, but some in the Arroyo government seem to see them as a way of gathering support for a harder line toward the MILF.

One independent consultation that has received international funding is being undertaken by the Bishops-Ulama Council (BUC), an independent interfaith forum of Catholic, Protestant and Muslim clerics founded in 1996 in the aftermath of the peace agreement between the government and the MNLF. Working through parish and mosque networks under the supervision of an academic research team, focus groups across Mindanao will be asked to address four questions: what is your vision of peace, what are your recommendations to the peace talks, what can you recommend on the broader peace process and what can you personally contribute to the process?³³ Before answering the questions,

²⁸ Bringing Qatar on board would obviously weaken the argument against internationalisation.

²⁹ The MILF is looking at the CPA in Sudan as a model for this, but closer to home, the role of the EU behind the Aceh Monitoring Mission might be worth closer examination.

³⁰ Crisis Group interview, Cotabato, 21 January 2009.

³¹ Crisis Group interview, Cotabato, 20 January 2009.

³² Crisis Group interview, Manila, 23 January 2009.

³³ “Consult Mindanao!” draft concept paper, January 2009.

respondents will be given a summary of the key issues, prepared by the researchers and approved by the BUC. Results of the focus group discussions will then be compiled in a report, with the whole process expected to take ten months.

Some of those involved in the BUC are worried that the questions are too broad and the mechanics too weak to give some stakeholders a sense that they were genuinely consulted, although the study design was still undergoing modifications in late January.³⁴ One Catholic leader also said that while the church hierarchy from the bishop to the parish priest could be mobilised to get the focus groups organised, but there was no equivalent structure for the Muslim communities.

But the bigger problem with the proposed study, he said, is that it did not get at the crux of the issue: land. The reason many of his parishioners were opposed to the MOA was because it envisaged some Christian majority villages and others with substantial Christian populations coming under the control of the BJE. It was not just a question of consultation. Unless these fears are discussed in very concrete terms and overcome, opposition to the MOA or a future agreement will remain.³⁵

The designers of the BUC consultation may not have given much thought to how the results would be fed back into the peace process, other than by publishing a book about the findings. Their main concern was to be independent of the government, including in terms of funding, and to reach as many different groups as possible. Whether this proves useful will depend on the sharpness of the final analysis and its translation into useful policy recommendations.

The second dialogue will be government-run, under the supervision of Attorney Camilo ‘Bong’ Montesa, assistant secretary for peacemaking and peacekeeping in OPAPP. While the details are still being worked out, the aim would be to involve community leaders and government officials in the areas where opposition to the MOA was strongest, including Zamboanga, Iligan and North Cotabato; elicit specific concerns and objections; and then design a “social marketing strategy” to address them. It is not clear how long this will take. In the meantime, officials in the Arroyo government are divided. Some believe that any dialogue can be used to demonstrate how much public sentiment has swung

against the MOA and wring more compromises from the MILF. A few, but they are very much in the minority, see it as helping to identify and overcome the hurdles on the way to a settlement.³⁶

A comparison of the peace process between the Indonesian government and the Free Aceh Movement in 2005 demonstrates how infinitely more complex the Mindanao situation is. There, there were only two groups of potential spoilers, the Indonesian military and members of parliament. Indonesian President Yudhoyono, a retired general, took on the first, and Vice President Kalla, chairman of the party with the largest number of parliamentary seats, took on the second. There was very little opposition within Aceh itself. In Mindanao, opposition comes not only from the armed forces and members of Congress, but from many living in the proposed territory of the Bangsamoro Juridical Entity (BJE) itself: powerful political families, Christian communities and indigenous groups. Even if Arroyo and her vice president were willing to spend the political capital to press for acceptance of the MOA – and they have not been – it is not clear the results would be as successful as in Aceh.

VI. SUBSTANTIVE ISSUES

In all its statements about reconstituting the peace panel and resuming talks, the Arroyo government has not made clear whether those talks would be aimed at negotiating a new agreement on ancestral domain or working directly toward a final agreement, the so-called “comprehensive compact”. One official suggested the government would like to discuss an agreement based on the same three “strands” that it wants for the IMT: security, development and DDR, but that will be a non-starter for the MILF.³⁷ The MILF’s demand for clarification about what the government is willing to talk about is thus wholly warranted.

The MILF is going to have to do some clarification of its own, especially on where it stands on Philippines sovereignty. The Supreme Court, in its October 2008 ruling, suggested that the MOA’s reference to an “associative relationship” between the BJE and the Philippines government implied a partnership of near-equals. The MILF deliberately left the concept ambiguous, both because it intended for the details to be worked out in another agreement, and in part because it had to play to its own audience, many of whom

³⁴ Those involved in designing the survey said the questions were deliberately broad; they worried that if the questions were specifically about reactions to the MOA, groups opposed might not cooperate. Crisis Group interview, 22 January 2009.

³⁵ Crisis Group interview, Manila, 23 January 2009.

³⁶ Crisis Group interview, senior government official, Manila, 23 January 2009.

³⁷ Ibid.

were still dubious about giving up armed struggle for less than full independence. Privately, some MILF leaders say they aim at having something like the U.S.-Puerto Rico relationship, but there may not be full consensus on this point.³⁸ Nevertheless, at some stage, they will have to be more straightforward about accepting Philippines sovereignty if the peace process is to gain broader public support.

The other big issue is land. Much of the local opposition to the MOA relates specifically to the territories included in the agreement's annex, listing those considered part of the BJE. In addition to the core area that now constitutes the Autonomous Region of Muslim Mindanao (ARMM), the annex listed 737 villages (Category A) that could opt in through a plebiscite to be held within a year of the agreement's signing, and 1,459 villages (Category B) of about 1,500 mostly Christian majority villages with some Muslim residents that would have affirmative action programs, then be offered a plebiscite in 25 years. Category B struck fear into the hearts of the settler population, because to suggest their lands were even considered part of the Moro ancestral domain was to invite land grabs by armed Moro elements (a few of which took place right after the MOA was announced). One critical way of reducing opposition might be to drop Category B entirely – but MILF negotiators will not agree. They say they have already cut back substantially on the historical Bangsamoro homeland, and that if they cannot argue to their own people that they are securing genuine self-government over a territory significantly larger than that which emerged from the 1996 agreement that produced the ARMM, there is no point in talking.³⁹

Given the Supreme Court ruling, there is almost no way Moro aspirations can be accommodated without a constitutional change, and only when this government or its successor is willing to contemplate that prospect and agree in principle to fight for it is there any real chance of resolving the conflict.

VII. DEVELOPMENT ASSISTANCE

The MILF has always been sensitive to the possibility that the government would use development aid as a substitute for political concessions, but it has been very receptive when assistance has reinforced the peace process, as with the establishment of the Bangsamoro Development Agency (BDA) in 2001 and the Bangsamoro Leadership and Management Institute (BLMI) in May 2008. A new, more dynamic BDA head may give that institute a new boost; the BLMI hopes to become a centre for training professional cadres that will eventually take on key roles in the BJE. To the extent that assistance to these two MILF-linked agencies can help inculcate values of ethical, merit-based governance and accountability and more involvement of women, it will be helping prepare the Moros for running their own affairs. Aid for human resource development through scholarship programs and aid to schools is also money well spent.

A huge amount of development aid is already pouring into Mindanao. The U.S. Agency for International Development's Growth with Equity in Mindanao (GEM) project has a budget of \$190 million over five years (2008-2012). Much of the work of the multi-donor Mindanao Trust Fund for Reconstruction and Development is aimed at building institutional capacity; the World Bank is the fund administrator. Since October 2008, the European Union has spent more than €10.5 million on Mindanao.⁴⁰ Aid projects are also under way from Japan, Canada, Australia, Sweden and New Zealand, many of them directly focused on helping conflict-affected communities.

At this stage, it is not additional funds that are needed so much as creative thinking about how existing allocations could be used to maximum benefit. One area, for example, where targeted assistance could be useful is in planning now for the reintegration programs that will be critical if and when an agreement is reached, even if it seems a distant prospect now. Finding training and jobs for thousands of MILF combatants will be the problem. It might be worth working through the BDA and a local university to undertake some preliminary surveys of combatant educational levels and vocational skills and how those mesh with local labour markets in areas where the ceasefire is still in place.

³⁸ Puerto Rico is a self-governing commonwealth in association with the U.S. Its residents are U.S. citizens but without representation in the U.S. Congress.

³⁹ Crisis Group interview, Cotabato, 21 January 2009.

⁴⁰ €6.5 million in relief, €3 million on longer term rehabilitation, and €1 million on conflict resolution projects.

VIII. CONCLUSIONS

Peace is not around the corner in Mindanao. No one should have illusions that the government's move toward reestablishing its negotiating team presages a new political will to address the complex issues that scuttled the MOA. But if a settlement seems unlikely during the Arroyo administration, there is still much to be done now that might help make a future peace stronger. The MILF negotiators have studied many of the autonomy agreements reached around the world in the last decade, but there are still lessons to be learned not just in what provisions were included but how compromises were reached and what tactics were used.

For the moment, all parties should concentrate on finding a formula for ending the military operations in central Mindanao. If a negotiated peace agreement, for the moment at least, is not possible, the focus should be instead on a solution that will address the issue of renegade commanders, halt displacement and allow hundreds of thousands to return home.

Jakarta/Brussels, 16 February 2009

APPENDIX A

MAP OF THE PHILIPPINES



Courtesy of The General Libraries, The University of Texas at Austin

APPENDIX B

MAP OF MINDANAO



This map was produced by the International Crisis Group



International Headquarters

149 Avenue Louise, 1050 Brussels, Belgium · Tel: +32 2 502 90 38 · Fax: +32 2 502 50 38
Email: brussels@crisisgroup.org

New York Office

420 Lexington Avenue, Suite 2640, New York 10170 · Tel: +1 212 813 0820 · Fax: +1 212 813 0825
Email: newyork@crisisgroup.org

Washington Office

1629 K Street, Suite 450, Washington DC 20006 · Tel: +1 202 785 1601 · Fax: +1 202 785 1630
Email: washington@crisisgroup.org

London Office

48 Gray's Inn Road, London WC1X 8LT · Tel: +44 20 7831 1436 · Fax: +44 20 7242 8135
Email: london@crisisgroup.org

Moscow Office

Belomorskaya st., 14-1 – Moscow 125195 Russia · Tel/Fax: +7-495-455-9798
Email: moscow@crisisgroup.org

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