



THE MAGUINDANAO MASSACRE, THE BANGSAMORO PROBLEM AND THE PEACE PROCESS

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As a peace advocate who has considered Muslim Mindanao as my second region (after Bicol), I join so many others in their shock at and condemnation of what is now called the Maguindanao Massacre of 23 November 2009, likewise in expressing sympathies for the close relatives and friends of those who were killed, especially two fellow human rights lawyers, and calling for speedy justice and other necessary measures of redress and reform. There will never be enough words to describe this almost unbelievably deprived and inhuman incident.

A Philippine Problem

The Maguindanao Massacre has been rightly explained as the tragic, though rather extreme, consequence of the Philippine central government's or the Arroyo administration's well-known deliberate cultivation and patronage of the Ampatuan political warlord clan and dynasty as its main instrument for political control in Maguindanao province, if not also the rest of the Autonomous Region in Muslim Mindanao (ARMM). Political control vis-à-vis political rivals or opponents of the Arroyo administration, and also vis-à-vis the main Moro rebel groups, notably the Moro Islamic Liberation Front (MILF) whose main provincial and ethnic base is Maguindanao. Thus, the characterization by some analysts of the Ampatuan clan as "political entrepreneurs" who have become "Malacanang's monster (or Frankenstein)." This has been a symbiotic central-local axis of power, with mutual benefits also extending to wealth. The analysts have situated such local warlordism, apparently becoming more voracious and brazen in its arrogance of power, in the context of a conversely ever-weakening Philippine state.

The Maguindanao Massacre has again brought to fore, but more shockingly, the weaknesses of Philippine governance in the ungovernable "Wild, Wild West" of Muslim Mindanao. Among these weaknesses are "structural inequities in our political system, including control by an elite minority, traditional politicians and political dynasties, and enforcement of such control through private armies" – this itself already identified by the National Unification Commission (NUC) Consultations in 1992-93 as one of the root causes of the internal armed conflicts in the country. The NUC then had specific recommendations to address these root causes, including for establishing a regime of good governance, upholding respect for people's

rights and improving the administration of justice, and establishment of a pluralistic political society. But the ruling system has proven to be intractable and incorrigible to various on-and-off reform efforts.

And so, the heinous crime of political violence which is the Maguindanao Massacre is just the latest, though the most shocking, indictment of the Philippine political, electoral, security and justice system. The most immediate call or challenge is for justice and against impunity. Crime, esp. heinous crime, must be punished, but not necessarily with the restoration of the equally heinous death penalty. A criminal justice system deals properly not only with the offended and the offending parties but also with the witnesses – without whom there is no case, no due process, no establishment of guilt beyond reasonable doubt. The willingness and safety of witnesses in the Maguindanao area in turn depend on a degree of protection, presumably mainly by the police, against threats to their lives from the private armies of the implicated political warlord clan there. Not only these private armies but also the Maguindanao police and their official auxiliaries (Civilian Volunteer Organizations or CVOs) as well as those of the military (Special CAFGU Active Auxiliaries or SCAAs) are part of the problem. Their dismantling and disarming (and not only those of the currently predominant Ampatuan clan) have become necessary to serve the ends not only of criminal justice and human security but also of the integrity of the coming 2010 electoral process – i.e. “ensuring free, orderly, honest, peaceful, and credible elections,” as constitutionally mandated.

But deputization of law enforcement agencies and instrumentalities for election duties will not be enough for the reform of the political and electoral system. It again bears noting that the second of three principles of the comprehensive peace process, as formulated out of the NUC Consultations, is that “It seeks to establish a genuinely pluralistic society, where all individuals and groups are free to engage in peaceful competition for predominance of their political programs without fear, through the exercise of rights and liberties guaranteed by the Constitution, and where they may compete for political power through an electoral system that is free, fair and honest.” In addition, as far as the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) to be deputized are concerned, there is also a great need for security sector reform. In short, the jolt that has come with the Maguindanao Massacre might as well be taken as an impetus not only for more effective immediate and short-term measures but also for a more thorough-going strategic process of reform, if not overhaul, of nothing less than the whole state of Philippine politics and governance.

A Bangsamoro Problem

Thus far, we have dealt with only one level, which we might call the Philippine problem. Because the Maguindanao Massacre happened in Muslim Mindanao mainly between two Moro political clans, there is also the level of the Bangsamoro Problem – which the Mindanao Peace Process is supposed to solve. This peace process, in grappling with the solution to the Bangsamoro Problem, should now consider local political warlordism of the Moro variety (which has its specific characteristics compared to the mainstream Filipino Christian variety) as part of that problem. To put it more clearly or concretely, will it be any different or better under a

future negotiated entity of Bangsamoro self-determination and self-governance? What will be the internal political system in “a system of life and governance suitable and acceptable to the Bangsamoro people,” as “the end in view” sought by the MILF in the peace talks? To the extent that the Government of the Republic of the Philippines (GRP) considers the Bangsamoro people as part of the Filipino people, that “internal political system” is a valid concern of the GRP which is constitutionally mandated to look after the welfare of its people. Stated otherwise, why turn over partial sovereignty if this will mean throwing its people to the wolves?

So far, the main or key documents of the Mindanao Peace Process have not dealt specifically or concretely with Moro political warlordism, their private armies, intra-Moro political violence, clan grudge feuds called *rido*, and the “culture of the gun,” even though there have already been many incidents of intertwining or entanglement between the former and AFP-MILF armed hostilities. In the initialed but unsigned and aborted Memorandum of Agreement on Ancestral Domain (MOA-AD), the closest reference might be the provision empowering the Bangsamoro Juridical Entity (BJE) to build, develop and maintain its own institutions -- inclusive of electoral, police and internal security force, legal and judicial system -- necessary for developing a progressive Bangsamoro society, the details of which are supposed to be discussed in the negotiation of the Comprehensive Compact.

This Comprehensive Compact is of course supposed to deal mainly with forging a better (because more just) structural relationship between the Philippine republic and the Bangsamoro people currently within this republic. But this should not mean waiting for this to be achieved first – whether in the form of higher (than ARMM) autonomy, federalism, or associative relationship – before being clear enough (at least having a blueprint) about the key internal affairs of whatever Bangsamoro self-determinative entity. It may in fact have to be the other way around, i.e. for all concerned (starting with the Bangsamoro people) to be fairly clear first about what we are getting into before getting into it. One question is, can this unfinished peace process be a source of hope for the sort of problem manifested by the Maguindanao Massacre?

The finished 1996 Final Peace Agreement (FPA) between the GRP and the Moro National Liberation Front (MNLF), and for that matter the supposedly implementing Organic Act for the ARMM, Republic Act No. 9054, likewise do not deal specifically or concretely enough with the afore-mentioned problems related to Moro political warlordism. Their respective relevant provisions on the Special Regional Security Forces (SRSF) for the ARMM, presumably for the maintenance of public order and security there, have been a perennial bone of contention between the GRP and MNLF up to the currently ongoing tripartite review process regarding the FPA implementation. But perhaps even more telling than the provisions is the practice as far as the helmsmanship of the ARMM is concerned.

Three successive extended terms of MNLF governorship (first no less than MNLF Chairman Prof. Nur Misuari, then his former foreign minister Dr. Parouk Hussin) over the ARMM has been characterized, among others, as a failure of leadership for autonomy, peace and development (without absolving the culpability of the central government which

established a low-intensity autonomy in the first place with the 1987 Constitution). And then this extended MNLF governorship could not prevent the eventual ascension of the traditional Moro political clan of the Ampatuans to the helm of the ARMM, but of course with the indispensable help of their friends in the Arroyo administration. The ARMM has since become the *Ampatuan Regime in Muslim Mindanao*. This kind of traditional Moro political leadership (just like the mainstream Filipino traditional politicians or “trapos”) and, sad to say, the failed MNLF leadership, do not at all inspire confidence as sources of hope for new and better politics and governance in Muslim Mindanao.

Yet, they somehow have to be part of the solution to the Bangsamoro problem. Asec. Camilo Montesa of the Office of the Presidential Adviser on the Peace Process (OPAPP) has a good sense of this which he calls “1 Bangsamoro Challenge” (note rather than problem). He says “We, in the Philippine government, are slowly moving towards the direction of a closer, integrated response to this single, yet multi-faceted, 1 Bangsamoro Challenge. We cannot continue to deal with the MILF peace process, the MNLF peace process, the challenge to make ARMM work, and the threats posed by extremist groups like the JI and Abu Sayyaf as if they are separate and unrelated.... While we engage these groups differently, we want to engage them in view of all our other efforts across the other tables. In the end, we are talking about the same people, the same aspirations, the same problems and probably the same solutions.”

Some Problems for the Peace Process

Assuming that the Philippine government or side, ever fractious especially with the coming “big bang” elections, can semi-miraculously get its act together, the other side of the coin which needs this, perhaps even more miraculously, is the Bangsamoro side. The dynamics of division between the MNLF and MILF has not helped their presumably common cause for better self-determination for the Bangsamoro people. On top of that, they have both been often opposed by the traditional Moro political leadership in the different provinces of the ARMM, not to mention the Christian majority provinces in the vicinity. It is really more for the Bangsamoro side, rather than the Philippine government, to work on at least a critical level of intra-Moro unity. Perhaps, independent Bangsamoro civil society organizations and the *ulama* can help this unity process, as they have already been helping the peace process.

The Maguindanao Massacre and the central government response to it, some of which has been asked for and lauded by certain Moro quarters, might also have some longer-term negative implications for Bangsamoro self-determination and the peace process. The conceivable and possible end of Ampatuan dominance may be of only short-term benefit, especially for its political rivals – the Mangudadatu clan (already anointed by the Lakas-Kampi-CMD ruling party for the governorship of Maguindanao, but not yet the ARMM), and the MILF. The central government’s coming in strongly, though a bit delayed, with a political, military and prosecutorial show of force to take control of the volatile Maguindanao situation was/is necessary in the immediate term from the point of view of preventing further lawless violence and asserting Philippine governance and some rule of law. What in the recent past has been treated by the local people as militarization by AFP occupation forces is now probably seen by

some of them as a welcome assurance of deterrence or protection against being caught in the crossfire of a dreaded all-out *rido* (if there was none before between the long-time allied Ampatuan and Mangudadatu clans, there certainly is basis for one now).

In the longer-term, what are the implications of all these for Bangsamoro self-determination and the peace process? One is that it will probably take longer not just because of current attention to and tension in the political clan situation in the Maguindanao area, also with the election period still to come in 2010. But also because of the more compelling need to tie together the various strands of the "1 Bangsamoro Challenge." It is now in the context of this larger challenge that a different interpretation or application should perhaps be made of recent visitor U.S. Secretary of State Hillary Clinton's advice to "strike while the iron is hot."

Another longer-term negative implication of the Maguindanao Massacre and the central government's necessary immediate taking control of the situation there is the question it raises about the merits of Bangsamoro self-determination and self-governance. The political violence was essentially between two traditional Moro political clans, thus something intra-Moro, but which has had to take the central government to restore some law and order into the situation. For some, even on the Bangsamoro side, it seems that what is needed is stronger central government control – the anti-thesis of Bangsamoro self-determination. And if the central government can actually serve justice for the victims, which even the MILF is asking for, then this would be seen as a great service by the government to the Bangsamoro people. Why then not stick with this system of justice if it redeems itself in the Maguindanao Massacre case?

The Maguindanao Massacre can only reinforce the centuries-old anti-Moro bias of the mainstream Filipino Christian majority, which bias has consistently been behind their often knee-jerk opposition to any better Bangsamoro self-determination. The majority will see mainly the two antagonist Moro clans of the Ampatuans and the Mangudadatus, as well as the many Christian journalist victims. They will not see who has long protected the Ampatuans and the other warlords, who has armed them, who has tolerated their abuses, and who has imposed them on the Bangsamoro people. Not only the "Satanic" Ampatuans but the entire Bangsamoro people, those "terrible Moros," will be demonized by the Filipino majority and the aggrieved media. Only Moros can counter-act whatever unfair image of them, and it will have to be by deeds more than by words. One Moro friend has said, "The best the Moro can do is to face the consequence of this heinous political crime."

These are times that call for Bangsamoro statesmanship as they also call for Filipino statesmanship. The latter is definitely not shown by those Filipino candidates for high office (from Senator up) who immediately opportunistically took advantage of the Maguindanao Massacre to project their political party (clue: they were among the most vocal against the MOA-AD). The MILF for its part took the opportunity to somewhat awkwardly call attention to the actually more heinous massacres of thousands of Moros by Philippine state forces like the Palimbang, Patikul, Pata, Manili, Kauswagan and Magsaysay Massacres for which justice has not been served to this day. So, perhaps one critical question in all these is, who can better serve justice?

The MILF may not be in a position to serve justice in the Maguindanao Massacre case where the main protagonists are not under its "jurisdiction." But the MILF certainly has several recent cases under its jurisdiction, particularly its 102nd, 103rd and 105th base commanders whom it had acknowledged to have committed unsanctioned indignation attacks against Christian civilian communities in Central Mindanao in August 2008, and more recently its 113th base commander being implicated in the kidnapping of Irish priest Fr. Michael Sinnott last October. The MILF has yet to show convincingly, transparently and accountably that its own criminal or military justice system has served justice or even military discipline in these cases. When we often speak of "peace based on justice," this could very well be one concrete application of this principle. The side that can and does act with justice, in both the criminal and political realms, must be the source of hope.

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