

Is a Bangsa Moro State within a Federation the Solution

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I. INTRODUCTION

A discussion on federalism and the peace process is timely in view of the advocacy of the "federalists" like Rey Teves, Sen. Aquilino Pimentel Jr., Dr. Jose Abueva and a host of leaders who believe that the federalization of the Philippine state is the constitutional solution to the many problems of the state and governance including the peace process in Mindanao between the Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front (MILF).

However, a discussion on federalism should not be limited to the peace process alone because the two are completely separate issues. The federal system can be adopted independent of the peace process in Mindanao. The MILF, as well as the Moro National Liberation Front (MNLF), may enter into a comprehensive, just and lasting solution to the Mindanao conflict under an international agreement or constitutional arrangement even if the federal system is not adopted.

The question however, is can a federal state for the Bangsa Moro people be the best option for a peaceful political solution leading to a lasting peace in Mindanao? If the answer to the above question were in the affirmative, federalism would be the best way to attain peace and should be the goal in order to achieve the final status agreement with the Bangsa Moro people.

In this context, it is imperative to understand Islam and the Muslim faithful. The concept of the Muslim *Ummah* (Community), in the universal, national, and ethnic perspective, which is the basis of the Muslim Law of Nations that regulate the relations of Muslim states, nations, and peoples on the international level, must be studied and appreciated. The terminologies of Islam, the Muslims, and the Bangsa Moro, as well as the history of the Bangsa Moro people as an anti-imperialist and anti-colonial State seeking for national liberation and as citizens of the Philippines, are also important to study and evaluate. These will be discussed later on as this author examines the different political options available, including a federal system in the Philippines.

In June 1980, a two-day conference entitled, "The World of Islam from Morocco to Indonesia", was held in Washington, D.C., to commemorate the 14th Centennial of Islam. Over 400 scholars from around the world were brought together to explore Islam and the modern world. This author was one of the discussants in the said Conference, which was sponsored by the Asia Society, the Department of State, and the John Hopkins University to celebrate the 14th Century of Islam.

The Conference concluded that at present, the impact of industrial development, technology, urbanization, and secular values has had far-reaching consequences. Throughout the world, rapid changes have disrupted Muslim social patterns and cultural traditions that served as reference points for centuries. Muslims, no less than others, are reacting to the flood of Western individualism, materialism, sexuality, family, and politics. To many, these ideas threaten basic Islamic values.

Furthermore, the outlook of most Muslims is strongly colored by a very recent emergence from a long period of foreign domination. There is also an awareness of the clearly visible economic disposition between industrialized and developing nations, and within societies, as well as between classes.

Also, concerned Muslims across Asia and Africa are actively exploring many routes to find the balance between modernization and tradition. This reflects a sense among Muslims that Islamic principles may provide them a more appropriate solution to their national problems than those offered by either capitalism or communism. Therefore, they call for a re-injection of basic Islamic values into the lives of the individual and society.

The clamor for the revival of these Islamic values is gaining credence even in the Philippines with the adoption of the *Madrasah* education program and the adoption of Muslim personal laws.¹ The very concept of secularism is being modified in Europe and North America to promote the correct understanding of Islam and Muslims especially with world events such as the events in Afghanistan, Iraq, Bosnia, and the Philippines, among others.

II. ISLAM: ITS BASIC PRINCIPLES AND PRACTICES

The Holy Qu'ran² says, "*Inna Laddina ind-Allah-il Islam.*" (Surely, the way of life acceptable to Allah is Islam.)³

What is Islam? *Islam* is an Arabic word, which literally means a *commitment* to live in or be at *peace*. It assumes an active attitude towards life. The simple verbal noun *Salm* gives the pure root, while *Salam* from the III forms the verbal noun of the IV or causative measures. *Islam* then means its achievement or attainment. While the word *Muslim*, shown by its prefix M,

1. A Decree to Ordain and Promulgate a Code Recognizing the System of Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration and for Other Purposes, Presidential Decree No. 1083 (1977).
2. THE MEANING OF THE GLORIOUS QU'RAN: TEXT, TRANSLATION AND COMMENTARY (Yusuf Ali trans., 3d ed., 1938) [hereinafter GLORIOUS QU'RAN].
3. *Id.* at Sura III, Aya 19. When GLORIOUS QU'RAN is mentioned, citation is made as [GLORIOUS QU'RAN, III:19]. It means GLORIOUS QU'RAN at Sura (Chapter) III and Aya (Verse) 19. This citation system will be carried on in later footnotes.

means someone who has accepted the commitment, Islam does not mean "surrender" or "submission" as other commentators suggest.⁴

Islam is not just a religion, if religion means only a system of belief and worship. Rather, it is a total way of life. It proclaims faith and sets forth rituals. It also prescribes order relationships, matters of business, etiquette, dress, food, personal hygiene, among others. *In essence, it is a system of laws to be followed in which the sacred is not separated from the secular. The Western concept of the separation of the church and state is alien to Islamic thought.*

It has been fashionable for Orientalists and other non-Muslim writers to dichotomize Islam as high/low Islam, elite/folk Islam, or classical/modern Islam. While there may be elite Muslims, folk Muslims, Muslims living during the classical period of Islam, or Muslim living today, there is only one Islam. Islam changes neither its essence nor its teachings.

The Prophet Muhammad (Peace be upon Him) said: "Of all things, two are best, the Word (*al-Kalam*) and Faith (*al-Iman*). The best word is the Word of God (*Kalam Allah*) and the best faith is the faith of Allah's Apostle. And beware of innovations (*Muhadathat*) because they are the worst." Clearly, then, the final arbiter of what is Islam are the Holy Qu'ran (*Kalam Allah*) and The Way of the Prophet (*Sunnah*).

One of the greatest thinkers in Islam, Al-Ghazzali, maintained that the theologian cannot be distinguished from the common folk except through the art of argumentation and safeguarding the laws. However, to know God, His Attributes and His Works does not result from theology. In fact, theology is almost a veil and a barrier against it.⁵

A. Qu'ran, Sunnah and Shar'ia

The teachings of Islam are found in the *Al-Qu'ran* (the Recitation), which Muslims hold to be the immutable Word of God (*Kalam Allah*) and the unrivaled source of authority in almost all aspects of individual and group living. It was revealed through the Angel Gabriel (May Peace be on Him) in Arabic to the Prophet Muhammad, (Peace be upon Him). The Prophet was commanded to recite the revelations he received from Allah. Muslims believe that the Qu'ran should be read and understood in its original Arabic. Although the Qu'ran has been translated into most of the world's languages, it is always recited or chanted in Arabic.

4. See generally, IRVING T.B., TERMS AND CONCEPTS IN TRANSLATING THE QURAN IN ISLAMIC PERSPECTIVES (Ahmad and Ansari eds., 1979), which provides an in-depth analysis on the whole subject matter.
5. See generally, AL-GHAZZALI, BOOK OF KNOWLEDGE (N. Faris trans., 1974) which provides an extensive treatise on the subject matter.

The next source of Islam after the Qu'ran is the Hadith, which comprises the traditions, sayings, and anecdotes about what the Prophet said or did as remembered by his companions and passed down to the succeeding generations as parts of the *Sunnah* (the beaten path), which Muslims ought to follow. The *Sunnah* recounts the deeds, sayings and silent approval of the Prophet covering details of community life.

The Qu'ran and the *Sunnah* provide the framework for the Shari'ah or the Islamic body of laws. *Shari'ah* or *Shar'* originally meant "the path or the road to the water," i.e., the way to very source of life.⁶ A very practical intent was part of the concept of Shari'ah — it is the Way, ordained by God, wherein man is to conduct his life in order to realize the Divine Will. It encompasses all aspects of human behavior, be it intellectual, physical, or spiritual. All legal and social transactions, including personal course of conduct falls under the domain of Shari'ah, which is the "comprehensive principle of the total way of life."⁷ The beliefs to which man is required to subscribe in Islam are few. These are simple, straightforward, and rationally acceptable. These beliefs serve as the bases for supporting righteous conduct and in helping man orient his life towards goodness.

Imam (Faith or Belief), as used in the Qu'ran signifies either simply a confession of the truth with the tongue or an assent of the heart and a firm conviction of the truth brought by the Prophet Muhammad (Peace be upon Him). Maududi defines *Imam* as to know, believe, and be convinced beyond the least shadow of doubt. Faith then is a firm belief arising out of knowledge and conviction.⁸ A *Mu'min* is one who believes.

There are Six Articles of Faith (*Imam*) in Islam. These are:

1. Belief in the Unity of God (*Tawheed*)
2. Belief in His Angels
3. Belief in His Revealed Books
4. Belief in His Prophets
5. Belief in the Day of Judgment (Hereafter)
6. Belief in the Divine Measure of Things (*Qadr*)

Faith is unlike a wish. Faith is something certified by hearts and proven by deeds. *These Articles of Faith are precisely principles of action.*

In *Tawheed* (Unity of God), Allah is the One Being who possesses all the perfect attributes. When a man is required to believe in Allah, he is actually required to make himself possessor of the highest moral qualities, his goal

6. For a more thorough discussion, see FAZLUR RAHMAN, *ISLAM* (1966).

7. *Id.*

8. See generally, SAYYID ABUL 'ALA MAUDUDI, *TOWARDS UNDERSTANDING ISLAM* (1984) which provides an extensive treatise on the subject matter.

being the attainment of the Divine attributes. Man must therefore set before himself the highest and purest ideal of which the mind of man can conceive, and make his conduct conform to that ideal.

Belief in the Books of God signifies that one should follow the directions contained in them for the development of ones inner faculties. Belief in the Apostles of God means that one is to model oneself on their noble examples and sacrifice ones life for humanity as they did. Belief in the Hereafter tells man that physical or material advancement is not the end or goal of life, but that its real purpose is an infinitely higher one, of which the Last Day (Day of Judgment) is just the beginning. Belief in the Divine measures of things (*Qadr*) makes one realize that human knowledge, human power, and human will are all subjects to limitations, and these limitations are placed upon many by divine measures.

B. The Pillars (Arkan) of Islam

Islam is a complete way of life. It consists of Faith (*Imam*) and Action (*Amal*). *Amal* is expressed through what is known as the Five Pillars of Islam.

Narrated Ibn 'Umar:

Allah's Apostle said: Islam is based on the following five principles:

To testify that none has the right to be worshipped but Allah and Muhammad is Allah's Apostle [*Shahadah*].

To offer the compulsory congregational prayers dutifully and perfectly [*As-Salah*].

To pay *Zakat* (i.e., obligatory charity).

To perform *Hajj* (i.e., pilgrimage to Mecca)

To observe fast during the month of Ramadan [*Sawm*].⁹

I. *Shahadah* (Declaration of Faith)

The First Pillar is naturally, the Declaration of Faith (*Shahadah*). Muslims declare their faith in God and His Prophet by reciting the *Dalimah Shahadah*:

Ash-hadu an la ilaha illa lahu wahdahu La sharikalahu. Wa ash-hadu anna Muhammadan 'abduhu wa rasuluhu.'

This declaration can be translated as:

I bear witness that none should be worshipped but God. He is one and has no partner. And I also bear witness that Muhammad is His Servant and His Messenger.

The first part of the *Shahadah* states that "none should be worshipped but Allah." He is one and has no partner. This brings us back to *Tawheed*, which is the bedrock of Islam. While faith in *Tawheed* is necessary, complete

9. HADITH, Book 2, Number 7.

adherence to it in practical life is imperative. *Tawheed* signifies as relationship with *Al-Wahid* (the One) that excludes a similar relationship with anyone or anything else. Man, who commits himself to the Will of God, recognizes no authority except His and accepts no guidance other than His. This commitment is total as well as positive and vigorous. It involves love and worship, obedience and submission combined with an eagerness to do His will and a sense of mission.

The acceptance of Muhammad (Peace be upon Him) as God's Prophet is the second part of the *Shahadah*. A Muslim recognizes that the Prophet received revelations from God and thought all human beings how to live on earth as true servants of God. The Prophet not only preached Islam but practiced it as well. His life is a model for everyone to follow.

No man in history can equal his greatness. The French historian, La Martine, in his *History of the Turks*, for example, paid tribute to Muhammad (Peace be upon Him) in these words: Philosopher, orator, apostle, legislator, warrior, conqueror of ideas, restorer of rational belief, of a cult without images, founder of twenty terrestrial empires and one spiritual empire — that is Muhammad. With regards all standards whereby human greatness may be measured, we may well ask: IS THERE ANY MAN GREATER THAN HE?¹⁰

Jules Masserman, in a special section of the *TIME* Magazine concluded that perhaps, Muhammad was the greatest leader of all time.¹¹ Incidentally, Masserman is a Jew, and the prophet Moses was a close second in his list. Michael H. Hart, an American astronomer, historian and mathematician, rates the Prophet Muhammad on top of his list of the 100 greatest persons of all time.¹² Incidentally, Hart, who is a Christian placed Jesus third and St. Paul fifth on his list.¹³

2. *As-Salah* (Prayer)

Prayer is the second Pillar of Islam. It is the first duty enjoined on the Prophet. It is also the first duty of Muslims. It is an act of *ibadah* (worship).

10. *Mohammad (Peace be upon Him)* at <http://www.geocities.com/ahoque1/mohammad.htm> (last accessed Aug. 30, 2003).

11. *TIME* MAGAZINE, *Who Were History's Great Leaders*, July 15, 1974, available at <http://www.jeddah.4t.com/prophets/greatestprophet/everybodychoice4.htm> (last accessed Aug. 30, 2003).

12. See generally MICHAEL HART, *THE 100: A RANKING OF THE MOST INFLUENTIAL PERSONS IN HISTORY* (1992) for the complete list and for the reasons why Muhammad is the most influential person in history.

13. See *Id.*

Prayer is the remembrance of Allah. It is the first step in the onward progress of man, and yet it is also his highest spiritual ascent. It keeps man away from evil and thus enables him to attain his level of perfection. It helps him realize the divine in him, and that realization not only urges him to attain to do disinterested service for humanity but also makes him attain the highest degree of moral and spiritual perfection.

Islam preaches that all men are equal. The concept of ordained clergy is rejected. In its mosques, there are no pews and the Imam arrives without distinction or rank. Prayer, especially, congregational prayer, is a means of leveling all differences of rank, color, and nationality and the necessary basis of a living civilization.

3. *Az-Zakat* (Charity)

Zakat, the third pillar of Islam, is not simply obligatory charity. It is a state institution, a communal institution, when a Muslim State does not exist. The individual is not at liberty to calculate and spend his *zakat* as he likes. It must be collected by the State and spent by the state or community. This fund is to be used for the upliftment of the community.

Zakat is levied at a uniform rate of two and a half percent of the accumulated wealth or net income. Wealth has a tendency to accumulate, and *zakat* aims at its partial redistribution in such a manner that the community as a whole may derive advantage from it. Like *Salah*, *Zakat* is an act of worship, a practical form of *ibadah*. It also means "to clean." It cleans or purifies our wealth as much as it cleans and purifies our hearts.

Zakat, although the most important, is not the only national institution of charity in Islam. There are two others of a similar nature, both connected with the "Id Festivals," whereby every Muslim heart is instilled the idea that even when in his happiest mood, he must never forget the distress of his poorer brethren. The *Zakat-al Fitr* is the charity connected with *Id al Fitr* or Feast of Ramadhan. Every Muslim is required to give a certain measure of food, about two to four gantas of rice, which is collected by the community and distributed among those who deserve it. The second is done during the *Id il Adha* or Feast of the Sacrifice wherein the poorer members of the community are fed with meat of the sacrificed animals and the sum realized from the sale of extra meat are spent on charitable objects of national value.

Aside from these obligatory charity, Muslims are also enjoined to give charity voluntarily. The Holy Qu'ran lays stress on such great deeds of charity as the emancipation of slaves,¹⁴ the feeding of the poor,¹⁵ and taking

14. GLORIOUS QU'RAN, II:177; XC:13.

15. *Id.* at LXIX:34; XC:11-16; CVII:1-3.

care of the orphans.¹⁶ It also gives equal emphasis to smaller acts of benevolence. As the Prophet said:

On every limb there is a charity everyday; a man helps another to ride his camel — that is a charity; or help him loan his animal — that is a charity, and so is a good word; and every step which a man takes in going to pray is a charity and to show the way (to a traveler) is a charity.¹⁷

4. *Sawm* (Fasting)

All Muslims are enjoined to fast *i.e.*, to abstain from food, drink, and evil deeds from dawn to sunset during the month of Ramadhan. It was in this very month that Al-Qu'ran was first revealed to mankind, the month when the Prophet has undergone his greatest spiritual developments; and therefore, the month most suitable for the spiritual development of the *Ummah* or Muslim Community.

The Qu'ran says, "O ye who believe, fasting is prescribed for you as it was prescribed before you, so that you may guard against evil."¹⁸ Fasting is not a noble institution, having been practiced by people before Islam. It is difficult to name a religion that does not recognize the benefits of fasting. The Prophet Moses fasted for forty days, an example later followed by the Prophet Jesus, who even commanded fasting to his disciples when he said, "Moreover, when ye fast, be not as the hypocrites, of a sad countenance... be thou, when thou fast, anoint thine head, and wash thy face."¹⁹ The early Christians practiced fasting.²⁰ In fact, as narrated in the New Testament of the Christian Bible, even Saint Paul fasted.²¹

Fasting is primarily a spiritual discipline. On two occasions in the Holy Qu'ran,²² those who fast are called *Sa'ih* or spiritual wayfarers. In the Hadiths, special stress on the ultimate object is fasting. The Prophet said that "surely the breath of the man who fast is more pleasant to God than the scent of musk; he refrains from food and drink can be overcome by he who has great faith in the Divine presence. As God said: 'We are nearer to man than his jugular vein.'"²³

16. *Id.* at XVII:34; LXXVI:8; LXXXIX:17; XC:15; XCIII:9; CVH:2.

17. HADITH, Book 56, Number 72, 128.

18. GLORIOUS QU'RAM, XI:183.

19. Matthew 6:16-17.

20. Acts 13:2-3, 14:23.

21. See II Corinthians 6:5; 11:27.

22. GLORIOUS QU'RAM, IX:112; LXVI:5.

23. *Id.* at L:16.

Fasting is a moral discipline for it is a training ground where man is taught the greatest moral lesson of his life: one should be prepared to suffer privation and trial rather than indulge in what is not permitted. For a whole month, Muslims have to control their appetites and desires. He who can command and control himself is very near to, if he has not already attained, moral greatness.

As a social value, both the rich and the poor, the great and the small, feel the pangs of hunger during Ramadhan. This awakes sympathy for the poor in the hearts of the rich. For this reason, helping the poor is emphasized during the Ramadhan.

5. *Hajj* (Pilgrimage)

Pilgrimage to the Ka'aba, the first House of God, is enjoined upon all Muslims, provided they can afford it. The Qu'ran said: "[P]ilgrimage to the House is incumbent upon men for the sake of Allah, upon everyone who is able to undertake the journey."²⁴ While in performing the *Al-Salah*, Muslims turn towards the Ka'aba. In *Hajj*, they physically transport themselves to the Ka'aba. While in *Zakat*, one is trained to part with a small portion of his wealth for the good of the local community, in *Hajj*, one must part with a good portion of his wealth to venture on a journey. Moreover, while in *Sawm*, one gives up the basics of life, *i.e.*, eating and drinking, in *Hajj*, one gives up the comforts of home and time for one's family and friends.

No other institution in the world has the wonderful influence of the *Hajj* in leveling all distinctions of race, color, and rank. Prince or pauper, white or black, the intellectual and the illiterate, all come together before the House of God as His servants, members of one huge family, all clad in one dress (two white sheets). There is a vast concourse of human beings, all clad in the same fashion, all moving in one way, all declaring, "*Labbaika! Allahumman Labbaika!*" which means "Here we are O Allah! Here we are in thy Presence." Thus, every Muslim is made to pass, at least once in his life, through that narrow gate of equality which leads to World Brotherhood.

Without pillars, a house necessarily falls. Without the Five Pillars — *Shahadah*, *As-Salah*, *Az-Zakat*, *As-Sawm*, and *al-Hajj*, the House of Islam necessarily collapses. However, a strong and dynamic practice of these duties insure the development of values necessary for the establishment of a moral world order.

24. *Id.* at III:96

C. Humanity and the Ummah

1. The Individual

In Islam, the human individual is responsible for his actions. In praying, he needs neither priest nor saints to intercede for him to the Almighty. In praying, he supplicates directly to God. His declaration of the *Shahadah* is between him and God. During the month of Ramadhan, only he could decide whether to fast or not. If he feels pressures from the community to fast, he could eat in the privacy of his house or room with nobody being the wiser, save God. As to the Pilgrimage, he could always claim insufficiency of funds if he does not care to go on *Haji*. It is only in *Zakat* where the individual is obligated by the community to do as commanded. Simply put, the individual may choose to live in accordance with Islam or he may not. It is based on his own volition. Allah does not need him, but he needs Allah.

The Qu'ran is very clear. Fathers cannot help their sons. Saints cannot help their disciples. The individual alone is responsible for his actions, and only he can try to win the mercy of the Lord. However, the Qu'ran also says that no burden will be placed upon any soul other than that which it can bear.²⁵ God is indeed Merciful.

2. The Ummah

The Qu'ran was revealed not only for a group of people, but for all humankind. In addition, Muhammad (Peace be upon Him), was a mercy unto mankind. Islam emphasizes that mankind is one great family. As *Tauheed* is the pivot and essence of Islam, it calls for the Unity of Mankind. The opening verse of the Surah *An-Nisaa* of Qu'ran says:

O Mankind! Reverence your
Guardian-Lord, who created you
From a single person (soul), created
of like nature, his mate, and from
them twain scattered (like seeds)
Countless men and women
Reverence God, through whom ye
Demand your mutual right and reverence the wombs that bore you
For God ever watches over you.²⁶

God is One, the Ancestor of Man is One. Today, however, man is divided into various races, nations, tribes. The Holy Qu'ran says:

O Mankind!
We have created you from a single pair

25. *Id.* at VI:152.

26. *Id.* at IV:1.

And made you into nations and tribes
That ye may know each other
(Not that ye may despise each other)
Verily, the most noble in the sight
Of God is he who is the most righteous
God is the knower, the Wise.²⁷

God looks at Mankind as a beautiful botanical or zoological garden where the flora and fauna are of different colors, each with its own beauty. Emphasis of the Unity of Mankind abounds in the Holy Qu'ran. As to the various religious prophets, the Qu'ran says: "We make no distinction between any of his Messengers."²⁸ The importance of mankind belonging to one *Ummah* (Community or Brotherhood) can be gleaned from the following verse: "Verily, this *Ummah* or yours is a single *Ummah*. And I am your Lord and Cherisher; therefore serve Me and no other."²⁹

This *Ummah* now comprises about a fifth of the world's population. There are about some 800 million people in more or less 60 countries who are Muslims. The World of Islam (*dar-al-Islam*) stretches from the heartland of Saudi Arabia eastward through West Asia and the Indian subcontinent to Indonesia and the Southern Philippines, northward into Central Asia and Southeastern Europe, and westward across north and sub-Saharan Africa, and the Atlantic into South and North America. This geographic spread contains people of many races and cultures, unified by their membership into the Islamic *Ummah*. Finally, the Qu'ran, in addressing humanity in general, says that: "You are the best community that hath been raised up for mankind. You enjoin right conduct and forbid indecency; and you believe in Allah."³⁰

The crucial terms *ma'rif* (right conduct) and *munkar* (indecency) are basically human in content. It is man possessed of sound judgment and balanced orientation, who by the light that God gave man while creating him, recognizes the good and the bad. Imam Ghasali commented that enjoining what is good (*ma'rif*) and forbidding what is bad (*munkar*) is a *Fard Kifayah*, i.e., a duty by the whole community.

These beliefs and values of Muslim in Islam are important to understand if one is to gain a deeper insight in the nature and essence of the Bangsa Moro struggle. It is imperative to understand the terminology of Islam and Moro languages within the peculiar context of their history.

27. *Id.* at XLIX: 13.

28. *Id.* at II: 285.

29. *Id.* at XXI: 92.

30. *Id.* at III: 110.

III. WHAT IS BANGSA MORO?

It is important to define the terms used, particularly, "Moro" or "Bangsa Moro" and "Filipino" because the hermeneutic interpretation of the Bangsa Moro issue is as important as the substantial issues regarding the conflict and the solution thereof.

But according to philosophical hermeneutics, 'History is not separated from the present. We are always simultaneously part of the past, in the present, and anticipating the future. In other words, the past operates on us now in the present, and affects our conception of what is yet to come. At the same time, our present notions of reality affect how we view the past.'

Moro leaders and intellectuals maintain that if the Philippine government truly wants to solve the so-called Moro Problem, it must exert an honest-to-goodness effort to understand the feelings, sentiments, biases, ideals, prejudices, customs, traditions and historical experience of the Bangsa Moro as enunciated or articulated by the Moros themselves....

Hermeneutics must necessarily come into play if one were serious in solving the 'communication gap' between the Muslim and Christian Filipino communities. There must be a real effort in cultural interpretation.

The Moro problem is even exacerbated by the textual interpretation of both groups to important documents like the Philippine Constitution and the Tripoli Agreement.

Many people in the government and the academe try to view the Moro Problem within the framework of social constructionist communication theories or Marxist critical theories. Some Moro intellectuals believe that postcolonial discourse theories cannot be used because the Moros are still under colonial rule; *i.e.*, Filipino colonial rule. It is absolutely useless to blame the Americans or multinationals or globalization for the plight of the Moros, as what the leftists [are doing]. If there's anyone to blame, it is the colonial power, *i.e.*, the Filipino government.

The MNLF, MILF, BMLO and other Moro groups have petitioned the United Nations to resolve that the Bangsa Moro nation be de-colonized. Today's Filipino historians, writers, or intellectual do not mention the fact that the great Filipino nationalist himself, Claro M. Recto, authored the bill called 'Colonization of Mindanao Act.'

Hermeneutics phenomenology or philosophical hermeneutics could be the framework needed to help solve this socio-political problem. Using critical theories, which focus on ideology and power, might simply aggravate the problem. As Paul Ricoeur wrote:

[W]hat is at stake can be expressed in terms of an alternative: either a hermeneutical or a critical consciousness.... In contrast with the positive assessment of hermeneutics, the theory of ideology adopts a suspicious approach, seeing tradition as merely

the systematically distorted expression of communication under unacknowledged conditions of violence.³¹

It is important that we should have the proper understanding of the recognition given by Philippine law and jurisprudence, as well as, by the Philippine government in its agreements with the MNLF and the MILF and the Resolutions of the Organization of the Islamic Conference that the indigenous Muslim communities of Mindanao, Basilan, Tawi-tawi, and Palawan are to be known as the "Bangsa Moro People," and that their culture, religion, history, and civilization are distinct from the Filipinos who were colonized by Spain, and later by America. Such distinct ethnic nationality does not make them separate or enemies of the Filipinos or the Philippine State but as "equal historic communities" that must co-exist and work together to strengthen a common state or even separate states within a federal or confederal system of government.

In the United Kingdom, the Scots, the Welsh, or the Irish of North Ireland are not called British or English but they remain a strong state, a United Kingdom, and were once an empire. The Corsicans of France as well as the Britons are not called French nor are the Basques of Spain called Spaniards, the Wallons and Flemings of Belgium are two separate peoples in one state, the Montenegrins and the Serbs in the Federation of the former Yugoslavia or the Chechens or the Cossacks or Dagastanis and many nationalities in the Russian Federation or the Tibetans or Uighurs of China are not called Chinese or Han for they are separate nations or the Ainos of Japan. There are numerous other cases in the world with many nationalities in a single Federal or Con-Federal state like the United States of America (U.S.).

When the Bangsa Moro asserts its historic right as a national ethnic community, it is not being separatist or secessionist. Rather it asserts a historical truth that must be acknowledged. Otherwise there will be no solution to the conflict in Mindanao. The Bangsa Moro Question can have a genuine, just, and comprehensive political solution if its distinct historical claim as states before the U.S. illegally annexed them into the Philippines by virtue of the Treaty of Paris of 1898, as the basis of the solution.

31. Datu Jamal Ashely Abbas, *Hermeneutic Interpretation for the Bangsa Moro Issue at* http://jamalabbas.virtualve.net/hermeneutic_Moro.htm (last accessed Aug. 30, 2003).

IV. THE MUSLIM LAW OF NATIONS

In order to reconstruct the Islamic theory of international relations. One should recall that Islam is not only a set of religious ideas and practices, but also a political community endowed with a system of laws designed to protect the collective interest of believers as well as to regulate their relations with the outside world. The basic assumption underlying Islam's external relations with other nations is the principle that only the community of believers is the subject of the Islamic legal and ethical systems, while all other systems are the object of these systems, although the latter communities are by no means denied certain advantages of the Islamic systems. The ultimate objective of Islam was to establish peace within the territory brought under the pale of its public order and to expand the area of validity of that order to include the entire world.

Before Islam could achieve that ultimate objective, it had to enter into relations with communities that had not yet submitted to its control in accordance with a set of rules and practices. Conformity to Islam's legal and ethical standards was required not only of the believers whose territory had not yet expanded beyond the frontiers of the state but also of believers who owed their legal — though not necessarily their political — allegiance to Islam. An illustration of this principle can be found in Muslim minorities in China, Russia, Yugoslavia, Thailand, Philippines, etc.

However, the non-Muslims who resided within the Islamic community, although they were regarded as the subjects or citizens of the state (though not members of the religious community), were not bound by all the Islamic ethical and legal rules. Islamic authority however, had to deal with the problems arising from their inter-relationships with Muslims.

In the ancient near East, Greece and Rome, Islamdom and Western Christendom, a distinct civilization flourished in each of these 'worlds'. Within each civilization a body of rules and practices developed for the purposes of regulating the conduct of each entity with the others in peace and war.

Former systems of the law of nations, in contrast to the modern International Law of nations, were not universal in character since each system was primarily concerned with regulating the relations of entities and nations within a limited area and within one (though often more than one) civilization. Furthermore, each past system of the law of nations, in contrast to the modern law, was entirely exclusive, since it did not recognize the principle of legal equality of nations, which is the basis of the modern law of nations.³²

32. Macapanton Abbas Jr., *International Relations in Islam*, Address at Roundtable Discussions on Islamic Studies, Institute of Islamic Studies, U.P. Diliman (August 19, 1990) (on file with the author) [hereinafter *International Relations in Islam*].

Prof. Masjid Khadduri clearly expressed the legal theory that the Muslim law was based on the theory of a universal state. The binding force of the said law was not based on consent or reciprocity, but on their own interpretation of their political, moral and religious interests, as they regarded their principles of morality and religion derived mainly from the commandments of Allah. With the entry of the Muslim states in the United Nations (UN), it is a safe assumption that this principle has been relaxed and the legal equality of all nations is gaining acceptance in the Islamic world.

According to Professor Khadduri, the Muslim law used to be binding on individuals rather than territories. It was only during modern times, specifically, under the material and cultural pressure of modern civilizations, that the observance of law was attached to people in relation to the territories where they reside rather than in relations to the group they belong to. The Muslim law of nations is not a separate body of Muslim laws but is an extension of the laws designed to govern the relationship between Muslims and non-Muslims, whether inside or outside the world of Islam. Thus, strictly speaking, there is no such things as a Muslim National Law and International Law based on different sources and maintained by different sanctions because the Shari'ah does not distinguish.³³

A. *Al-Sijar (Law of Nations)*

The early Muslim jurist either dealt with the conduct of foreign relations in the general body of law under such headings as *Jihad*, Spoils of War, and the *Aman* or *Al-Kharaj*. Later on, all of these were discussed under a technical term *Al-Sijar*.

In practice the Muslim Law of Nations (*Al-Sijar*) is taken to mean the sum total of the rules and practices of Islam's intercourse with other peoples. The sources are the treaties, utterances and instructions of the Caliph to the commanders in the field, opinions and interpretations of publicist and jurists. Analyzed in terms of the modern law of nations, the sources are of the same categories defined by modern jurists and the Statute of the International Court of Justice, namely, agreement, custom, reason and authority.³⁴

In Islamic legal theory, the world was therefore divided in two divisions: *Dar Assalam* (The Abode of Peace) comprising of Islamic and non-Islamic territories held under Islamic sovereignty, and the rest of the world, called *Dar Al-Harb* or the Territory of War. The first included the community of believers as well as those who entered into an alliance with Islam. The inhabitants of those territories were either Muslims, who formed the

33. See generally MASJID KHADDURI, *WAR AND PEACE IN LAW OF ISLAM* (1962) which provides an exhaustive discussion the above subject matter.

34. *Id.*

community of believers, or non-Muslims, those who belonged to tolerated religions who paid the Protection Tax (*Jizyah*) to Muslim authority.

The world surrounding the Islamic political community was known as *Dar Al-Harb* because it remained beyond the pale of *Dar Al-Islam*. It lacked the legal competence to enter into intercourse with Islam on the basis of equality and reciprocity. Such territory may be regarded as "state of nature" because it ruled to conform to Islamic legal and ethical standards. Some Muslim publicists, especially *Shaffi* jurists, devised a third temporary division of the world, called *Dar Al-Sulh* (Territory of Peaceful Arrangement) or *Dar Al-Ahd* (Territory of Covenant), giving qualified recognition to non-Islamic communities if they entered into treaty relations with Islam, on conditions agreed upon between the two parties. However, the *Hanafi* jurists never recognized the existence of a third division of the world, arguing that the inhabitants of a territory, which concluded a peace treaty and paid a tribute, became part of *Dar Al-Islam*. Its people were then entitled to the protection of Islam, because otherwise it would be part of the *Dar al-Harb* and object of Islam.³⁵

B. Definition of Jihad

The word *Jihad* is derived from *Jahd* or *Judh*, which means "ability and exertion." *Jihad* means the exertions of one's power in repelling evil. *Jihad* also means the using or exertion of one's utmost power, efforts, endeavors, or ability in contending with an object of disapprobation and this is of three kinds: the visible enemy, evil, and one's self. *Jihad* is therefore not synonymous with war. However, *Jihad* is also mistakenly used to mean holy war or defensive war by western or even westernized Muslims as the only *bellum iustum* in Islam. As stated in the Holy Qu'ran:

Those who believe, and suffer exile and strive (*Jihad*) with might and main, in God's cause with their goods and their persons, have the highest rank, in the sight of God: they are the people who will achieve salvation.³⁶

Sir Abdullah Yusuf Ali in his commentary observed:

Here, is a good description of *Jihad*. It may require fighting in God's cause as a form of self sacrifice. But its essence consists in (1) true and sincere faith, which so fixes its gaze on God, that all selfish or worldly motives seem paltry and fade away, and (2) an earnest and ceaseless activity, involving the sacrifice (if need be) of life, person or property, in the service of God. Mere brutal fighting is opposed to the whole spirit of *Jihad*, while

the sincere scholar's pen or preacher's voice or wealthy man's contributions may be the most valuable forms of *Jihad*.³⁷

Moreover, as stated in the Holy Qu'ran:

Fight (*Jihad*) in the cause of God
Those who Fight (*Jihad*) you
But do not transgress limits
For God loveth not transgressors
And slay them wherever ye catch them
From where they have turned you out;
For tumult and oppression
Are worse than slaughter
And fight them on
Until there is no more tumult or oppression
And there prevail Justice and Faith in God;
But if they cease, Let there be no hostility
Except to those who practice oppression.³⁸

Sir Yusuf Ali again commented on this verse that:

War is only permissible in self-defense, under well-defined limits. When undertaken, it must be pushed with vigor, but not relentlessly, but only to restore peace and freedom for the worship of God. In any case strict limits must not be transgressed; women, children, old and infirm men should not be molested, no trees and crops cut down, nor place withheld when the enemy comes to terms.³⁹

He explained the universal practice of Muslims and their governments on the matter of war and peace.

In general, it may be said that Islam is the religion of peace, goodwill, mutual understanding, and good faith. But it will not acquiesce in wrong doing of its men will hold their lives cheap in defense of honor, justice, and religion which they hold sacred. Their ideal is that of heroic virtue combined with unselfish gentleness and tenderness, such as is exemplified by the life of the Prophet. They believe in courage, obedience, discipline, duty and a consonant striving by all means in their power, physical, moral, intellectual, spiritual, for the establishment of truth and righteousness. They know that war is an evil, but they will not flourish from it if their honor demands it and a righteous Imam commands it, for then they know they are not serving carnal end. In other cases, war has nothing to do with their faith, except that it will always be regulated by its humane precepts.⁴⁰

37. *Id.* at n.1271.

38. *Id.* at II:190-193

39. *Id.* at n.204.

40. *Id.* at n.205.

35. *See Id.*

36. GLORIOUS QU'RAN, IX: 20.

The verses of the Holy Quran on *Jihad* aside from the two cited above which numbers more than 30 verses never used the word "*Harb*" or war but only "fighting."

The whole breadth of Islamic history will prove that *Jihad* was never used as an instrument of conversion for truly, mankind has never witnessed religious tolerance as displayed by Islamic rulers. The Holy Qu'ran enjoins religious tolerance when it commanded that there is no compulsion in religion; truth stands manifest from error.

Historians and writers like J.M. Haydman, Joseph Schart, Nathaniel Shemidt, Lamartine, Lipson, Dozy, Renan, Sir Allan Burns to name a few, credits Islam and its reign with the flourishing of intellectual and religious freedom for all. No less than Arnold Tynbee, the greatest historian of our times said:

Today the modern world stands in need of Islamic tolerance and universal brotherhood and the Muslim world has to play its role in the shaping of a harmonious and peaceful and happy destiny for the war-weary, tension tossed and ideology-torn world.⁴¹

C. Modern Definition of Islam

The first and most revolutionary change was the adoption of peaceful relationships among nations of different religions, modifying the classical principle of Jihad or a permanent state of war between Islamic and non-Islamic nations. Muslims rulers started making treaties establishing peace with non-Muslim states extending beyond the ten-year period provided under the sacred law.

The most notable instrument that formalized the peaceful relationship between Islam and non-Muslim states was the Treaty of 1535. It not only laid down the principle of peace and mutual respect between Sultan Sulayman the Magnificent and the King of France but also offered it to other Christian princes who were willing to adhere to the treaty.⁴²

The second fundamental change was the acceptance of the principle of the separation of religious doctrine from the conduct of external relations. In Islam there was a separation of doctrinal differences from the conduct of external relations and to regulate external relations on a secular basis. This was later adopted in Christendom thereby giving rise to the principle of *cuius regio, eius religio*. This was first adopted at the Peace of Augsburg in 1555, which became the basis of the Peace of Westphalia of 1648 and which

41. International Relations in Islam, *supra* note 32.

42. See generally JESSE H. PROCTOR, ISLAM AND INTERNATIONAL RELATIONS (1965) for an extensive discussion on the subject matter.

governed the relationship of the Christian states in Europe and later among the different faiths of the world.⁴³

The third principle was the adoption by Islam of the principles of territorial sovereignty and territorial law, which was necessitated by territorial segregation. When the universal monarchy of Islam suffered a split in its body politic under changing conditions of modern life, the constituent entities emerged as fully sovereign and each sovereign tended to divert the mode of loyalty of men from universal to territorial concepts. As a result, territorial segregation constituted an underlying factor for the gradual transformation of the nature of sovereignty from universal to territorial as well of the law from personal to territorial.⁴⁴

D. Jihad and the Modern Concept of War

Neither the League of Nations charter nor the Kellogg-Briand Pact which renounced war as instrument of national policy substantially altered the classic doctrine of war that states had an inherent right to go to war.

The charter of the UN has introduced a new doctrine on the use of force. The preamble proclaims "that armed force shall not be used, save in the common interest." In fact, Article I (1) of the UN Charter provides that one of its purposes is "to maintain international peace and security, and to that end, take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of peace." These statements imply the abolition of war in a legal sense. The only entity possessed of a legitimate power to use force is the Security Council which is authorized under the charter to take such action by air, sea, or land forces as may be necessary to maintain or restore peace and security.

The inherent right of individual or collective self-defense in cases of an armed attack is preserved in the charter. However, the exercise of the right of self-defense is merely a preliminary measure pending the exercise by the security council of its authority and responsibility to maintain or restore international peace and security.

The Muslim states, having entered membership in the UN, are legally bound by the Charter. From the point of view of Islam, there is no substantial conflict with the Islamic doctrine of *Jihad* because the purpose of *Jihad* is the establishment of peace, and if peace is established by the UN then the purpose of *Jihad* is served. Secondly, if aggression is committed on Muslim states, then the UN must enforce collective action. Otherwise, the Muslim

43. *Id.*

44. *Id.*

states may declare *Jihad* on the aggressor. Thirdly, the requisites for *justum bellum* under Islamic doctrines are satisfied by its Charter.

Another modern illustration of *Jihad* was in 1947 when the UN created the state of Israel and partitioned Palestine. The Mufti of Palestine declared *Jihad* and the Arab states supported Palestine in the Palestinian War. The intervention of the UN resulted in a truce and the rights of the Palestinians are still to be settled in the UN. As of the moment, there is a state of war between the Arab states and Israel and tensions results in a continuing cycle of violence. No Muslim state has extended recognition to Israel except Egypt.

Also, the India-Pakistan war resulted in the declaration of *Jihad* by Pakistan against India. During the war between these two states, the Muslim states had financially, morally or actively supported Pakistan in its war against India.

The secularization of Muslim states have led to the secularization of *Jihad* and the acceptance of the UN concept of war as *jus ad bellum* under "modern" Islamic legal and ethical standards. Muslim states submit disputes with other states to the UN for arbitration and mediation in accordance with its Charter, as peace being the ultimate objective, Muslim states are bound to honor the charter. The invasion of Afghanistan and Iraq by the US, aided by the United Kingdom (UK), without Security Council approval, is changing international law, which effectively prohibits war under the UN Charter except as a collective measure with the approval of the Security Council. The U.S. military occupation of Iraq and Afghanistan will inevitably affect the international law on war.

However, the modern concept of war, which disregards distinctions between civilians and combatants, rendering the Hague Convention of 1907 irrelevant, is still not acceptable to Islamic legal theory. This modern theory of war saw its application in Nagasaki and Hiroshima.

Under Islamic legal theory, the conduct of war is based on that noble principle forbidding the extension of warfare to harming non-combatants. The rules decree against the killing of the aged, the young women, the handicapped, those who have withdrawn from life to worship and meditate, and those who have refrained from participating in battle. The mass of workers, farmers, and tradesman-in other words, the civilians. It is not lawful to kill civilians. There should be cessation of hostilities should those whose death is not permitted be exposed to death between the ranks of the fighting forces. However, this limitation on war action has been violated repeatedly by US and UK and justified under the pretext of collateral damage. The use of massive bombings beyond enemy lines using guided missiles and bombs as the basic US strategy to maximize damage to enemy forces, utilities, transport facilities, radar and satellite systems has changed the rules of warfare and has caused more injuries and death on

civilian populations than soldiers as seen in Vietnam, Afghanistan and Iraq.⁴⁵

E. The Organization of Islamic Conference

The establishment of the Organization of the Islamic Conference (OIC) in 1971 operationalized the unification of the Muslim world initially constituting the Muslim states but with a declared intention to support the Muslim communities or minorities who constitute over 400 million of the 1.2 billion Muslim world population. Some of these Muslim minority communities are ancient nations and Kingdoms like those in the former Union of Soviet Socialist Republics, China, Eritrea, Thailand, Cyprus, and the Philippines and their respective populations and territory are much bigger than many Muslim states.

In 1972, this author attended the second OIC Foreign Ministers Conference in Jeddah, Saudi Arabia. He submitted the petition of the Bangsa Moro against the genocide committed by the Marcos regime. He also had long discussions with His Excellency Tenghu Abdulrahman Putra, First Secretary General of the OIC and the late Libyan Foreign Minister Saleh Bouyaser, one of the drafters of the OIC charter.

In these talks, the said leaders revealed that the late King Faisal Bin Abdulaziz of Saudi Arabia worked for the establishment of the OIC to promote the unity of the Muslims to act as a world force and the Islamization of the Muslim States in order to safeguard the purity of Islam and its institutions and to encourage Muslim societies to modernize within the framework of Islam. The struggle of Islam against Zionism, Fascism, Colonialism, and Anti-Islamic ideologies can only be won through the unity of the *Ummah* based on Islam. Further, the Muslim states collectively can protect and support the rights of Muslim minorities. This has been consistently confirmed by the Islamic Summit of Heads of States. However, it has been short on implementation because of disunity among Muslim states caused by superpower's domination of some Muslim states. It established the Islamic Solidarity Fund, the Islamic Development Bank, the Red Crescent, the Islamic New Agency, the Institute for Technical Cooperation, and the Federation of Muslim Chambers of Commerce and Industries, among others. It has also formulated a common stand in world issues before the UN, the non-aligned movement, the Organization of African Unity, Association of Southeast Asian Nations (ASEAN), and the Arab League. The Muslim States have emerged as one of the most powerful blocs in the UN and the world as shown by their unity on the oil embargo of 1973, the support for PLO and Palestine, the support for the Afghan Mujahiddin, the boycott on South

45. Macapanton Abbas Jr., *Jihad and International Law (1967)* (unpublished thesis, U.P. College of Law) (on file with the author).

Africa, North South Dialogue, the New World Economic Order and other major issues.

The OIC has also declared strong support for the Muslims in Eritrea, Cyprus, Bulgaria, and particularly the Bangsa Moro in the Philippines. They have given humanitarian assistance to all Muslim communities and made representations to the former USSR, Europe, U.S.A, Canada and China on the rights of Muslim minorities. Its position is that, the violation of the rights of Muslims anywhere in the world is a legitimate concern of the Muslim states representing the collective will of the Muslim World through the OIC.

In the Iran-Iraq war, the OIC heads of states and governments created a committee of head of states to mediate between the parties and they continued these efforts in all forms up to the UN Security Council until finally, the cessation of hostilities was achieved.

In the crisis in the Gulf States when Iraq invaded Kuwait and annexed it, the OIC condemned Iraq's action and conformed to UN Security Council resolutions. It supported an Arab multi-national force and mediation by Muslim States between Iraq and Kuwait — Saudi-Arabia. However, it did not support US actions in sending forces to Saudi Arabia. The OIC also did not support the war against Afghanistan and Iraq. The acts of the US are beyond the Security Council's resolutions.

The OIC became marginalized in the U.S. led invasion of Afghanistan and Iraq as well as the war in Palestine. The acts of the U.S. are beyond the RP-U.S Security Council Resolutions. This situation led to militancy and the birth of the Muslim *Jihadist* movements in the Muslim world as a reaction to the failure of OIC and Muslim states to be defenders of the *Ummah* and the Muslims.

Dr. Julkipli Wadi, in a paper on the Islamic *Ummah* in the 21st Century, commented on the new emergence of U.S. as the sole superpower on the Muslim concept of the law of nations as well as the doctrine of *Jihad*.

The politicization and subsequent trans-nationalization of Islam is a product of long-standing rivalry between Arab nationalism and pan-Islamic source of political system and framework of development in the Arab world which provided opportunity for pan-Islamic groups to claim support and legitimacy from marginal sectors of Muslim society. It is reinforced by the failure of Arab nationalism to get rid of neocolonial vestiges in the Middle East and other parts of the Islamic world. The sway of Islamic movements is brought about with the eclipse of reform movements in Muslim dominated areas and secessionist groups in non-Muslim dominated areas. Since the Afghan war in the 80's these two strands of struggles had forged strong linkages with each other. It thus appears that the neo-Islamic struggle is global; making their target not only their immediate enemies, (e.g., Arab/Muslim and Christian dominated governments) but the very source of global hegemony (America) and all the symbolism it represents

(capitalism, power). Taking cue from the fact that it is useless to engage in petty acts of violence in their respective locales, they thus catapulted their struggle by making a big signature in the heartland of American power as shown on September 11. What they simply needed was their will. Their capability came second. And, ironically, it was the knowledge and technology of the United States that they used to destroy the symbol of economic and political power of the United States. If there was a lesson learned by Islamic movements is that, if you want to be heard, you've got to elbow a major power. Yet, one has to be ready of being branded as a terrorist, fundamentalist, and all those sort of labels even by their fellow Muslim brothers unfortunately. And finally one has to contend the wrath of the Superpower and the international coalition against terror....

The rule of the game of international politics has indeed changed. The event last September 11 shows the fragility of the world today. If a big power like the United States can become a subject of intimidation by what it considers as an "enemy that hides in the shadow" what more of Third World countries including the Muslim world? Surely, the Muslim world, its dynamics and politics will be the subject of international controversy in the years ahead. The sense of historicity by a wide array of many Muslim struggles is now supplanted by over rhetoric on terrorism. The line thus between legitimate political struggle and terrorism has turned blurred.⁴⁶

After a discussion on the Muslim Law of Nations and an analysis of the concept of *Jihad* from its roots up to its implications in the modern concept of war, as well as the role that the OIC plays in the international arena, it is now proper to examine the history of the struggles of the Bangsa Moro.

V. RECENT HISTORY OF THE BANGSA MORO PEOPLE'S STRUGGLE

The Bangsa Moro struggle is deeply affected by the faith of the Bangsa Moro people in Islam as Muslims, its intellectuals (*Ulama*) and leaders are influenced by their own culture and terminologies in their efforts to right the historic wrongs on the Moro Muslims. They are also influenced and motivated by developments in the Muslim world and the world at large because many of their *Ulama* are educated in Islamic Universities. Some of them have even been elected to public offices like the Regional Vice-Governor Mahid Mutilan of Lanao del Sur and Governor Wahab Akbar of Basilan. The founder and late Chairman of MILF Ustaj Hashim Salamat was also an *Aleem*.

The wars and conflicts in the Muslim world have serious impact on the Bangsa Moro struggle, especially the US-UK war on terrorism, followed by the Philippine government. It is in this context that the nationality claims of

46. Dr. Julkipli Wadi, Address during the Muslim Youth Congress (Oct. 27, 2001) (on file with the author).

the Bangsa Moro first advanced by the MNLF, and now by the MILF becomes significant.

In 1970, there was a big debate on whether to use Bangsa Moro or Muslim to designate the nationality of the ethnic communities which was then designated as National Cultural Communities under R.A. 1881 creating the Commission on National Integration. This term included all the Cordillera tribes and the Lumads. Sen. Ahmad Alonto, in 1950, started using the term "Muslim" to refer to all the Muslim citizens. Together with the author's father, the late Macapanton Abbas Sr. and other prominent Muslim leaders, they formed the Muslim Association of the Philippines to unite the Muslims through Islamic consciousness and annual meetings in a Muslim Congress in one of the Muslim Provinces. The word "Moro" was rejected and was unacceptable.

The Jabidhah Massacre and the Philippine claim to Sabah based on the ownership of the Sultanate of Sulu brought about a new surge of Moro militancy among the youth. How could the Philippine government base its claim over Sabah on the treaties entered into by Sulu Sultanate as a state and go to the UN and even to declare war for the claim but reject the same as basis for a Moro Statehood? At that time, only the group of Nur Misuari used the term "Moro." The Ansarul Islam insisted on using "Muslim." Muslims shouted "*Allahu Akbar!*" (Allah is Great!) in rallies and stickers were made and stuck to vehicles and firearms. Islam became the rallying point for a political issue.

The *Dawatul Islam* was the official newspaper of all the Bangsa Moro Organizations united under the Union of Islamic Forces and Organization (UIFO) led by Congressman Sultan Rashid Lucman of Lanao del Sur and Congressman Salipada Pendatun of Cotabato. The said newspaper made researches on the terminology and came out with the term "Bangsa Moro" meaning, "Moro Nation." This author took this phrase or concept from the Zamboanga Declaration and the Dansalan Declaration. It was based on the Moro language. The newspaper pointed out, in its last issue on September 1972, that there were two nations in the anti-Spanish and anti-American or colonial struggle because the rebellions and revolution against Spain and America were either political or religious. The Bangsa Moro struggle was a *jihad* to defend homeland, Islam, and freedom against "Christian" and foreign colonizers assisted by the colonized *Indios* who comprised 80% of the foot soldiers of the colonizers.

Historically, Filipino meant Spaniard in the Philippines while the non-Moro inhabitants were called *Indios*. That was the reason the first propaganda movement was called *Los Indios Bravos*. When the *mestizos* and the upper class wanted to have equal rights and representation with the Filipinos at the Spanish Cortes and not independence, as Rizal argued, they began to call themselves "Filipinos" and organized the *La Liga Filipina*. However, all of

them still called the Muslims as "Moros" and did not include the latter in their struggle for equality with the Spaniards. The KKK was *Kagalanggalangan, Kataastaasan, Katipunan ng mga Anak ng Bayan*. It was the revolution of the Tagalogs and the Ilocanos, Boholanos, Pangasinan, Cebuanos, among others, and had their own rebellions. They were fighting for independence while the Bangsa Moro were fighting to defend their independent states.

It is a fact that among all the ethnic communities in the Philippines, only the Bangsa Moro have an indigenous term for government — *Parenta* — and they have organized governance, which is called *Pamarentahan*. The laws are called *Sar'ah* or *Adat* or *Taritib* and Government is based on the rule of law (*Sar'ah*).

Another proof of the Bangsa Moro and Islamic influence on governance is that in Pilipino elections are called *Halalan* to establish the *Pamahalaan* (government) and elected officials are *Halal ng Bayan*. *Hala* in Arabic or Bangsa Moro means "legal". Hence, legitimacy of the officials and government is based on being *Halal ng Bayan* or legitimate.

The Bangsa Moro are composed of various *Bangsas* like Bangsa Maranao, Bangsa Tao Sug, Bangsa Sama, Bangsa Yakan, Bangsa Iranon, Bangsa Kalagan, Bangsa Sangir, among others, which means that they composed the ethnic communities bound together by Islam and freedom struggle in a *Jihad* declared by the Sultanates against foreign colonizers thereby justifying the term Bangsa Moro as the greater nation of all the *Bangsas*, just like the *Bansang Pilipino*.

Mohammad Ali Jinnah, founder of Pakistan, said that the Muslims are always a nation and when they have in the past existed as kingdoms and empires, then with their historic homeland, they have the right to be a state as in case of Eritrea, Bosnia, Chechneya, Khasmir, Kosovo, the Central Asian Republics, among others, and the Bangsa Moro. Thus, the legal and historical justification for the demand for the right of self-determination of the Bangsa Moro. This was the rationale for the partition of India into India and Pakistan, and later Pakistan becoming two Muslim states with the secession of Bangladesh.

The MNLF inaccurately joined the two words and made it into one — *Bangsamoro*, referring to the people and not the nation. The MILF also did the same. However, the correct linguistic and grammatical term should be two words — Bangsa Moro — the Moro Nation. This has been the terminology adopted in R.A. 6734⁴⁷ and now, R.A. 9054.⁴⁸

47. The Organic Act for the Autonomous Region of Muslim Mindanao, Republic Act No. 6734 (1989).

48. The Organic Law of the Expanded Autonomous Region of Muslim Mindanao, Republic Act No. 9054 (2001).

Sec. 3 (b) Bangsa Moro people. These are citizens who are believers of Islam, and who have retained some, or all of their social, economic, cultural, and political institutions.⁴⁹

The Bangsa Moro people are also "indigenous cultural communities" under this Article and, therefore, have the right of protection and enforcement of their Ancestral Domain and Ancestral Lands.

The proper discussion and evaluation of any political situation in any country, must always consider and evaluate the historical antecedents, because in a conflict situation, a polite term for war, whether international or local, in the present time is only the product of the past as the present shall be the cause of future events.

In a historic and complex situation as the Bangsa Moro struggle that has spanned almost five centuries, the policy makers, including the President of the Republic of the Philippines, must try to seriously study and evaluate the historical events and complexities of the issue that make-up the web of conflict in Mindanao in order to unravel the "riddle and the enigma" and come out with a political policy that can be implemented and acceptable to the parties to the conflict, particularly, the MNLF, OIC and the MILF as well as the elected Bangsa Moro leaders.

A. War in Moro Land, Last Phase⁵⁰

Even before the Jabidah Massacre in 1968, the Muslim students organized on the national level, the Commission on National Integration (CNI) Scholars Association and the Muslim Students Association of the Philippines which started as social organizations. In 1965, because of the Vietnam War and massive influx of settlers to Mindanao, the student leaders from University of the Philippines (UP) injected these issues and started the militancy of the Muslim students.

The first issue to be questioned was the policy of national integration because the Muslims believe that they cannot be integrated culturally and socially to the Philippine society that is based on Christian values and acceptance of Spanish colonialism as a blessing and heritage that resulted to the Christianization of the Philippines. The scholars and the CNI supported this position and posited that what the country needed was "unity in diversity" and possibly a "federal system of government" since amendments to the Constitution were on the national agenda for 1971.

49. *Id.* at art. X, § 3 (b).

50. The author was one of the original members of the movement from 1965 onward. This is perhaps the first time he will be writing on this matter because he wants the Bangsa Moro Youth and the Filipino people to understand the Islamic Struggle while there are still some of the originators of the struggle who are alive and involved in different capacities in society.

The Muslim Youth organized the National Coordinating Council for Islamic Affairs (NACCIA) and issued a Manifesto entitled "*Al Wahid*" in 1967, calling on the Filipino leadership to pay greater attention to the miserable situation of the Muslims lest rebellion break out. There was a massive influx of settlers to the Muslim areas and displacement of Muslims and Lumads was widespread. The government was encouraging the immigration of settlers from Visayas especially from Negros provinces, Leyte, Samar, and Iloilo, because of the problems of the sugar plantation workers. There were also massive logging activities denuding the Mindanao forests by concessionaires from Luzon. These groups who destroyed the environment are now the industrial and financial controllers of the region. They have installed their protégés in political positions and even dictate policies for the Bangsa Moro. The NACCIA warned that these economic aggressions against the Muslims in their homeland and political displacement would be met with armed struggle, but the government, as always, failed to heed such calls.

In 1968, Army trainees from Sulu⁵¹ were massacred by their officers on Corregidor Island when they demanded to be paid and be allowed to return to their homes, because they refused to go Sabah in order to infiltrate and start the rebellion to reclaim Sabah for the Philippines. The Commanding Officer was Maj. Eddie Martelino, an alleged convert to Islam, who, later on, was executed by the MNLF-Malaysians in Sabah after his capture sometime in 1978-79. This incident led Congressman Rashid Lucman, Salipada Pendatun, and Salih Ututalum to demand congressional investigations. They were backed by massive youth demonstrations which took over the Congress premises. Only Cong. Indanan Ani and Ali Dimaporo sided with President Marcos.

The Union of Islamic Forces and Organizations composed of all the National Muslim organizations under the leadership of Sultan Rashid Lucman was organized. This author was elected Secretary General. His assignment was to organize the demonstrations. He organized and led the demonstrations in front of Congress while Nur Misuari and Abul Alonto organized the sit-in at Freedom Park in Malacanang. He led the demonstration in Jolo — the first and last anti-government demonstration of around 10,000 persons and in Cotabato City with the MIM and in Marawi City with the BMLF leaders. He was then Private Secretary to Commissioner Tamano at CNI. He filed his resignation, which was not accepted. However, he was allowed to go on leave of absence by then Executive Secretary Rafael Salas because he refused to desist from leading the demonstrations.

51. Sulu and Tawi-tawi were considered as one province at the time.

The foreign-trained Top '90 returned home and were welcomed by Sen. Benigno Aquino at Malabang, Lanao Sur. The local training camps were established and the Top '90 became the trainors. At that time, the secret organization was the Bangsa Moro Liberation Front (BMLF), which was later named Bangsa Moro Liberation Organization (BMLO) under Sultan Rashid Lucman and General Salipada Pendatun. The Top '90 also secretly organized the MNLF headed by Nur Misuari and Abul Alonto. The young *Ulama*, professionals and youth leaders were with the BMLF. This was also the first time that "Bangsa Moro" was used to refer to the Muslims in the Philippines. The MNLF used "Moro" only. This came after the Muslim Youth National Assembly (MYNA) wherein, over 200 youth leaders met in Zamboanga City at the same time with the Muslim Association of the Philippines Congress in 1969. Almost all the future leaders of the MNLF, MIEF, BMLO, and political leaders of the Muslims were present.

The MYNA debated independence or federation as the exercise of the right of self-determination of the Bangsa Moro people. After two days, the decision was to participate in the Constitutional Convention (ConCon) election of 1971 and to propose a federal system in order to obtain a Bangsa Moro statchood. This author, as well as Nur Misuari, Mike Mastura, Musib Buat, Hussin Pangato among others, ran in the ConCon elections. However, only Mike Mastura was able to make it due to alleged massive cheating and vote buying to assure President Marcos a majority.

The federal proposal never saw the light of day in the ConCon and the 1973 Constitution did not contain any provision respecting the Bangsa Moro's right to self-determination. Only Delegate Benjamin Abubakar of Sulu refused to vote for the approval of the Constitution and he truly represented the aspirations of the Bangsa Moro people and not the Muslim delegates who capitulated to Marcos.⁵²

The 1970-72 period saw the escalation of violence between the Barracudas and Ilagas in Lanao Norte and Black Shirts and Ilagas in the Cotabato massacres. The Ilagas "rats" were the paramilitary forces of President Ferdinand E. Marcos and was supported by the Armed Forces of the Philippines (AFP), directly or indirectly. The Mindanao Independence Movement was organized by Datu Udtog Matalam, patriarch of Cotabato, in 1969, which led to the violent clashes and became the stimulus for the government and Christian militias to launch massacres against unarmed Muslims as in the Manila, Cotabato massacre of Muslims in a *Masjid* (mosque), the Lutayan, the Tacub, the IPIL, and the Pata, Sulu massacres, among many others. The people of Buldon fought a battle against the AFP wherein the air force, artillery and tanks were used against a Moro town.

52. Macapanton Abbas Jr., *Bangsa Moro Struggle for Self-Determination*, Address at The Muslim Youth Summit (October 27-28, 2001) (on file with the author).

They fought until Mayor Tomatic Aratuc met with President Marcos and the government forces were withdrawn. During that time, the President was the *real* Commander-in-Chief and was responsible for all the military assaults on the Moro Communities.

This situation continued and the BMLF, under Sultan Lucman and General Pendatun, decided to file genocide charges against President Marcos with the UN and the OIC. A petition was filed with the UN Commission on Human Rights, through the UN Office in Manila in 1971. This was reported on the BBC world radio and was heard by Col. Ghadaffi of Libya who was then the new leader of his country. Ghadaffi decided to respond. He sent his Foreign Minister Saleh Buoyaser to Manila as a professor to attend the World Universities Conference. That was how the Bangsa Moro case was internationalized. This led to the organization of the Islamic Directorate of the Philippines (IDP) wherein all the Muslim political leaders joined as well the youth leaders including the writer, Misuari and Salamat. Dean Ceasar Adib Majul was elected chair as non-partisan leader, and this author, as the Secretary General.

B. OIC Recognition

As mentioned earlier, this author was sent as a lawyer to Jeddah, Saudi Arabia in February 1972 at the Islamic Conference of Foreign Ministers of the OIC. He met with Secretary General Tengku Abdul Rahman and asked King Faisal Bin Abdul Aziz to mention the issue in his speech. King Faisal also called Tun Abdul Razak to support the case, which Malaysia did. Minister Buoyaser of Libya coordinated with the Moros and got the Bangsa Moro issue into the agenda for the next conference in Libya. That was how the Bangsa Moro issue became the concern of the OIC from 1972 up to the present, spanning a total of nearly 29 years yet is still not finally settled.

When martial law was declared, the author was arrested and detained at Fort Bonifacio. In 1976, he went into exile in Saudi Arabia and returned only in 1987, after EDSA Revolution, upon invitation of the government under Pres. Corazon C. Aquino.

In 1972, the Bangsa Moro clans led the fight against the military that were sent to the Moro areas to collect loose firearms, which started with the October uprising in Marawi. In 1973, the MNLF gradually took over the leadership of the armed struggle because of the weapons they were able to bring into Mindanao and logistics donated by supporters of the Bangsa Moro *Jihad*. The OIC and many Islamic organizations and governments gave political and material support to the Bangsa Moro. The OIC Foreign Ministers of Saudi Arabia, Libya, Somalia, and Senegal came to the Philippines in 1973 and met with President Marcos and agreed to work out a political solution. They went to the Muslim areas up to Sulu. In 1974, the

burning of Jolo resulted when the MNLF fighters entered Jolo and an enormous battle raged with naval bombardment ordered against Jolo in wanton disregard of innocent civilian lives.

As a consequence, the 1974 Islamic Summit was held in Islamabad, Pakistan. The Summit declared that the situation of the Bangsa Moro Muslims was not an internal problem but a concern of the whole Muslim world. This was demanded by then Malaysian Prime Minister Tun Abdul Razak. The Bangsa Moro was allowed to convene in Marawi City by President Marcos. The Confederation of the Royal Houses of Mindanao, Sulu, and Palawan led by its Chairman, Sultan Harun Al Rashid Lucman and this author as the Supervising Officers of the Presidential Task Force for the Reconstruction and Development of Mindanao, held the "Mindanao Policy Conference" and came out with a resolution demanding regional political autonomy. This was at the height of martial law and it became the political basis for the OIC to demand regional political autonomy and the demand for negotiations with the Bangsa Moro leaders and the MNLF at the 1974 Kuala Lumpur Conference of OIC-ICFM. At this time, there was only one leadership and organization — the MNLF. The Bangsa Moro struggle got the support of the Muslim states and the first negotiation between MNLF and the GRP was held in Jeddah, Saudi Arabia in 1975, which was hosted by the OIC. Then Executive Secretary Alejandro Melchor led the GRP delegation.

C. Negotiations with the GRP Panel

In 1976, the government created a negotiating panel headed by Carmelo Z. Barbero to again talk peace with the MNLF. The talks were held under the auspices of the OIC in Tripoli, Libya. The peace talks resulted in the forging of the now historic Tripoli Agreement and the recognition of the historic territories of the Bangsa Moro Darul Salam of the Sultanates of Sulu, Maguindanao, Pat-a Pagampong a Ranao, Rajah Buayan, and Sarangani or the areas almost corresponding to the Moro Province during the American occupation which is the whole of Mindanao, Sulu and Palawan except the Caraga Region. To end the war, the areas of autonomy consisting of 13 provinces and cities therein were recognized by the GRP as the Bangsa Moro Homeland. These are the areas which were later constituted as the OPAP Special Zone of Peace and Development. President Marcos held a referendum on the areas of autonomy and reduced the area to ten provinces and cities and established the Regional Commissions for Regions 9 and 12. The Tripoli Agreement was violated from its inception and it was honored more in its breach than in compliance.

In 1977, Hashim Salamat, the MNLF Vice-Chairman for Foreign Affairs left the organization and formed a separate faction of the MNLF. After a few years when OIC refused to recognize him, Salamat organized the Moro

Islamic Liberation Front (MILF), emphasizing Islam, instead of only the political and economic grievances of the Bangsa Moro.

This split was later followed in 1982 when the Moro Peoples National Congress of MNLF led by Atty. Abdul Basit Harrid (Jibril Riddah) and Haji Napis Bidin ousted Chairman Nur Misuari and installed Commander Dimas Pundato as Chairman. This was supported by many active commanders in the Homeland. Pundato was then Vice-Chairman of Misuari's MNLF. The BMLO and the Pundato faction later joined forces and established the MNLF-Reformist Group. The group disbanded when Pundato joined the government as OMA Chief under President Aquino. The reformist commanders who did not join the government like Commander Digo and Commander Iqra formed in 1999, the new MNLF-Islamic Command Council with Mujahab Hashim as Chairman and Commander Milham Alam as Chief of Staff. Eventually, the four MNLF factions reunited and approved a constitution in April 2003 at Tripoli, Libya. As of today, however, they have not yet elected a chairman and other officers.

D. Tripoli Agreement of 1976

The government unilaterally implemented the Tripoli Agreement in a manner that was in contravention with the letter and spirit of the said Agreement. In 1986, President Marcos was deposed through the People Power 1 and Corazon C. Aquino became the President. She did not fully honor the Tripoli Agreement. According to the MNLF, the only pact, treaty or agreement signed during the Marcos regime that Aquino refused to recognize despite the commitment of her husband, Benigno Aquino, to fully implement the Tripoli Agreement and to support the independence of Bangsa Moro if autonomy would not work after ten years. This author was present when this statement was made in 1982 because Sultan Rashid Lucman, General Salipada Pendatun, and this author met with King Khalid Bin Abdulaziz of Saudi Arabia and with Benigno Aquino at the King's Palace in Taif, Saudi Arabia. They also arranged and gave Ninoy his passport "Martial Bonifacio", which he filled-up at Sheraton Hotel, Jeddah, Saudi Arabia in this author's presence.

The author, along with exiled Moro leaders in Saudi Arabia like the late Ambassador Mauyag Tamano, were able to convince then OIC Secretary General Puzada to send a message to President Aquino recognizing her as the President of the Philippines on 1 March 1986. This was five days after EDSA Revolution, and the 49 Muslim states were the first to recognize the legality thereof. This fact, however, has never been mentioned in the EDSA 1 history, which is unfortunate since the Bangsa Moro conflict could have been settled much earlier.

President Aquino created a Constitutional Commission that drafted a new constitution for the country. The new Constitution contained a provision for the creation of an Autonomous Region in Muslim Mindanao. The new Constitution was ratified in 1987 and a new Congress was established in the same year. However, because of the provisions contained in Art. X,⁵³ the MNLF broke off negotiations with President Aquino and for this reason, the MNLF did not recognize this constitution.

53. PHIL. CONST. art. X provides:

AUTONOMOUS REGION

Sec. 15. There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

Sec. 16. The President shall exercise general supervision over autonomous regions to ensure that the laws are faithfully executed.

Sec. 17. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

Sec. 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government from the region, consisting of the executive department and legislative assembly, both of which shall be reflective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

Sec. 19. The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

Sec. 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

- (1) Administrative organization;
- (2) Creation of sources of revenues;

The MILF adopted the same position. Both the MNLF and the MILF boycotted the elections. Moreover, majority of the Muslims either rejected or boycotted ratification of the Constitution. It was for this reason that the 1987 Constitution was ratified by only four provinces. The Christians and the Lumads did not reject *per se* the concept of regional autonomy.

Sen. Aquilino Pimentel Jr., sponsored a bill in the Senate, the Organic Act for Muslim Mindanao, which was signed into law as Republic Act No. 6734.⁵⁴ The MNLF and MILF claimed that it was a betrayal of the Tripoli Agreement, a charge that Senator Pimentel refuted by claiming that the law implemented 99% of the Tripoli Agreement. In 1993, President Ramos revived negotiations with Chairman Misuari to fully implement the Tripoli Agreement as a binding international obligation and commitment. This was an implied admission that R.A. 6734 did not implement fully the Tripoli Agreement. The Final Peace Agreement (FPA) was signed on September 1996 between the MNLF/OIC and the GRP in Jakarta and finally, in Manila.

E. Final Peace Agreement (FPA) of 1996

The FPA provided for the reorganization of the ARMM and the establishment of the Southern Philippines Council for Peace and Development (SPCPD) and its Consultative Assembly (CA). The SPCPD was tasked with coordinating development programs and projects for Mindanao but the government failed to provide the necessary funds and support facilities to the SPCPD. The government had allegedly allocated P41 billion but only P18 billion had been disbursed according to SPCPD/ARMM officials from 1996-2000. The government also did not

- (3) Ancestral domain and natural resources;
- (4) Personal, family, and property relations;
- (5) Regional urban and rural planning development;
- (6) Economic, social, and tourism development;
- (7) Educational policies;
- (8) Preservation and development of the cultural heritage; and
- (9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

Sec. 21. The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defense and security of the regions shall be the responsibility of the National Government.

54. R.A. No. 6734 was the original Organic Law for ARMM and was ratified by only four provinces: Sulu, Tawi-tawi, Maguindanao and Lanao Sur.

cooperate with the SPCPD in implementing the development programs and projects for Mindanao. There was inadequate funding and later, in the Senate hearings, the Department of Budget and Management (DBM) admitted that the total releases for ARMM were below P18 billion under the term of Regional Governor Misuari and most of the funds were for personnel services for the devolved agencies. There was nothing final in the Agreement because it was subject to the *will of Congress* and the *dictates of the Executive*.

The creation of the Mindanao Coordinating Council (MCC), established under Executive Order No. 371 by deposed President Estrada, sidelined the SPCPD to be the arm of the Office of the President in the planning, recommendation, coordination, monitoring, and validating of nationally and internationally funded socio-economic projects in the Special Zone for Peace and Development (SZOPAD) areas. The Chairman of the Consultative Assembly of SPCPD announced that there would be *en masse* resignations by the Assemblymen because the MCC, under Executive Order No. 261, and the SPCPD/ARMM, were monitoring and validating agencies but were not represented in the council and no Muslim was appointed in the council.

This author was invited to address the First Joint Sessions of the ARMM-RLA and the SPCPD-Consultative Assembly in September 2001 upon the invitation of Chairman Misuari at General Santos City. The creation of the MCC, the non-implementation of the FPA and the failure to enact the Organic Act agreed upon in the FPA, were denounced and the resolution was forwarded to GRP and the OIC Fact Finding Mission. Fr. Eliseo Mercado claims that the SPCPD had been rendered virtually inutile, as Chairman Nur Misuari had earlier declared. Without the SPCPD then, the FPA should be considered impliedly revoked because there no longer exists any implementing agency. After the ratification of the Organic Law on 14 August 2001, the SPCPD was *ipso facto* abolished. The SPDA was formally abolished in 2002.

From 1999 to 2002 the government failed to fully implement the FPA in its substantive provisions as far as MNLF/OIC is concerned.⁵⁵ At the same time the negotiations with the MILF broke down and led to renewed fighting between government troops and this time, the MILF carried on the Moro armed struggle when the MNLF decided to stop fighting after they signed the FPA and its chairman became then ARMM regional governor and concurrent SPCPD chairman. On the other hand, Estrada was elected President in 1998 with the support of the MILF and many Islamic organizations because he signed an agreement with *Ummah* Party of Lanao

55. This was later evidenced by Resolution No. 02-30, dated May 30, 2003, during the 30th ICFM held in Tehran, Iran.

del Sur to pursue peace and development and to appoint a Muslim to the cabinet and other high positions. He also announced that he would establish a Malacañang in the south as well as to implement the peace process and the FPA.

F. Agreement with the MILF

In August 1998, the GRP and MILF signed an interim agreement to continue the negotiations started by the GRP under President Ramos. There was a lot of goodwill because the new AFP chief of Staff, General Nazareno was even endorsed by MILF and the MILF supported President Estrada during the elections. President Estrada knew this for a fact. Presidential Adviser for Flagship Projects Robert Aventajado even brought the reply of the President to Camp Abubakar and met with Chairman Hashim Salamat. He later became a frequent visitor and gave socio-economic and infrastructure projects to the MILF as confidence-building measures and entered into an agreement making the area a zone for peace. The GRP under President Estrada also entered into agreements with MILF acknowledging the major camps of the MILF. Everyone was euphoric that peace was at hand and was of the belief that development and progress will surely follow. Later, however, Estrada launched an "all-out war" against the MILF despite the signing of the *Aide Memoire* between the GRP and MILF. The rest is history, chronicled in blood in Mindanao and street protests all over the country. It culminated in the second EDSA Revolution and the subsequent ouster of Estrada from the presidency.

The new President, Gloria Macapagal-Arroyo declared an "all-out peace" policy and dropped all the charges against Chairman Salamat and other MILF leaders. She started new negotiations. A new "all out war" against the MILF, however, was again launched in February 2002 during the *Eidul Adha* prayers in the early morning of 10 February 2003 at the Islamic Center of the Buliok complex at Pikit, Cotabato. This was done in spite of the fact that there was already a decision by both the GRP and MILF to meet at Kuala Lumpur to discuss the peace agreement. Secretary Eduardo Ermita even said on television that day that it was "tragic" because the peace process was going smoothly. The panels met at Kuala Lumpur for exploratory talks and came up with a Joint Statement dated 28 March 2003. This was after the Davao International Airport bombing on 4 March 2003. The March 28 agreement was not implemented because of another bombing on 4 April 2003 at the Sasa Port, Davao City. Once more, exploratory talks were held at Kuala Lumpur and another agreement was made on 21 June 2003. Again, this was not implemented because despite the two unilateral declarations of MILF to stop all offensive military actions on 28 May and 12 June 2003, respectively, the military operations of the AFP against the MILF forces continued.

However, on 18 July 2003, President Arroyo announced the signing of the ceasefire agreement between MILF and GRP which was finally signed by the MILF on 20 July 2003 because Chairman Al Haj Murad was in the mountain areas at that time. The death of Chairman Hashim Salamat on 13 July 2003 was significant since during the time Murad signed the ceasefire agreement, he was already the Chairman of the MILF. The GRP likewise signed the Agreement through Secretary Ermita, Chairman of the GRP panel. The Coordinating Committee for the Cessation of Hostilities (CCCH) of GRP-MILF met for the 10th CCCH meeting at Cotabato City on 4 August 2003.⁵⁶ The CCCH is now operational and they are working to organize the Local Monitoring Team (LMT) to enforce the ceasefire. Malaysia is expected to send observers.

The ceasefire agreement between the GRP and MILF was signed principally because of the insistence of the Philippine Muslim Leaders Forum (PMLF), the broadest loose association of elected and appointed Muslim government officials, which aimed to stop military operations and enforce the ceasefire.

In a letter sent to President Macapagal Arroyo on 16 July 2003 by PMLF Chairman, Deputy Speaker Gerry Salapuddin⁵⁷ presented the situation and urgent need for a ceasefire to restart the peace talks. Pertinent portions of the letter provides:

The MILF officials met with US officials for two hours yesterday and have discussed the relationship and time-line with the US in the peace process. They are also coordinating with Malaysia. After our lengthy discussions, we have agreed that the PMLF will present to Your Excellency the herein suggestions to break the impasse. I called Secretary Eduardo Ermita in the presence of the MILF officials and told him about these suggestions, and he agreed that this Memorandum be submitted today.

This was the commitment of the GRP in the March 28, 2003 Joint Statement of the GRP-MILF and explained in the minutes that it was to be done in four weeks from the signing of that agreement, and this was again reiterated in the minutes of the meeting of June 21, 2003. The DOJ is the prosecution arm of the executive and therefore its actions are not interference on the judiciary because it is responsible for all criminal prosecution. It has the authority under law and the rules of court to withdraw any criminal prosecution whenever it deems just and proper.

As agreed last June 21, 2003, once the GRP drops the charges and cancels the warrants and begins the phased redeployment of military forces in Buliok, which it has started with the return of the Islamic Center, and the

56. This author was present as a guest, being the Secretary General of the Philippine Muslim Leaders Forum.

57. Memorandum from Chairman Gerry Salapuddin, PMLF, to Her Excellency Gloria Macapagal-Arroyo (July 16, 2003) (on file with the author).

MILF has internally ordered their men at arms to desist as they have desisted from offensive military actions, the GRP will Issue a SOMO soonest after June 23, 2003.

Immediately, by June 28, 2003 the Coordinating Committee on the Cessation of Hostilities (CCCH) will be reconvened for the permanent ceasefire and reactivate the Local Monitoring Teams (LMTs). The GRP-CCCH Chairman shall be headed by a General from the AFP. The meeting was supposed to be held on June 28, 2003 in Estosan Hotel, Cotabato. Arrangements were to be made by Secretary Norberto Gonzales but the meeting did not push through because Sec. Gonzales left for Europe. He rescheduled it for July 12, 2003 but the GRP panel was informed late and therefore asked for postponement. It was rescheduled to July 18, 2003 but Malaysia is still waiting for the settlement of the issue on the warrants of arrest and the MILF is also waiting for the SOMO of the GRP.

In view of these developments, we agreed to propose that the meeting be held immediately between the GRP and the MILF wherein both parties will simultaneously declare the effectivity of the ceasefire agreement of June 21, 2003, convene the CCCH, and reactivate the LMTs.

The Malaysians will now be requested to send the international monitoring teams to monitor the ceasefire in coordination with the CCCH and the LMTs.

As provided in the GRP-MILF joint communiqué of May 6, 2003 signed in Malaysia, the MILF and GRP shall form an Ad-Hoc Joint Action Group against criminal elements in order to pursue and apprehend such criminal elements. 'Furthermore, the Ad-Hoc Joint Action Group, will operate in tandem with their respective Coordinating Committees on the Cessation of Hostilities.'

The U.S. can now be requested to contribute funds for the operation of the CCCH and the LMTs as well as discuss with the GRP-MILF the areas or projects where the U.S. can contribute the funds as offered.⁵⁸

A memorandum sent by this author to Secretary Ermita regarding GRP and MILF negotiations dated 17 July 2003, amplified the memorandum of Deputy Speaker Gerry Salapuddin and discussed the minutes of the 28 March 2003 Joint Statement and the 21 June 2003 GRP-MILF understanding and the letter of US President George Bush to Chairman Salamat.⁵⁹ The memorandum provides:

1. Deputy Speaker Gerry Salapuddin as Chairman of PMLF has submitted a memorandum to the President which was received in Malacañang and your office. I was informed by Gerry that you

58. *Id.*

59. Memorandum from Macapanton Y. Abbas Jr., to Secretary Eduardo Ermita (July 17, 2003) (on file with the author).

discussed it with the Cabinet Officials and possibly with the President. The memorandum was the result of the meeting with the MILF Panel last July 15, 2003.

2. As we have discussed last Wednesday, July 9, 2003, the letter addressed to Chairman Hashim Salamat of the MILF dated June 18, 2001 was in response to the letter of Chairman Salamat to President George Bush dated May 20, 2003, copy received by the US Ambassador on May 29, 2003 and copy of this letter herein enclosed. This letter was an expression of appreciation to the Joint Statement of President Bush and Arroyo on May 19, 2003 that the United States stands ready to provide diplomatic and financial support to a renewed peace process with the Moro Islamic Liberation Front (MILF), provided that the MILF renounced terror and the announcement that "Development Assistance to Conflict Areas: \$30 million in new bilateral development assistance for Mindanao and support for the peace process with the MILF, as appropriate. (Washington File, 19 May 2003)" and MILF repeated its renunciation of terrorism which was already been publicly declared several times by the MILF. The MILF accepted the US offer of assistance to the peace process and informed President Bush that 'We therefore welcome this offer of the United States government to extend support to the on-going peace process between the MILF and GRP.' This position has been agreed to by the GRP and MILF in their Joint Statement of March 28, 2003 under paragraph 7 and explained in the minutes to mean 'The term 'improve existing mechanism' means inviting more non-OIC member states to join as observer and monitoring group particularly Malaysia, Libya, and Brunei, other non-OIC countries and UN accredited agencies that is agreeable to both parties.' The non-OIC country refers to the United States.
3. The Joint Statement of March 28, 2003 between the GRP and the MILF agreed on the following points:
 1. Both parties reiterate their commitment to achieve a comprehensive, just, and lasting political settlement of the conflict in Mindanao and *resolve to undertake appropriate steps to pave the way for the resumption of the formal GRP-MILF peace negotiations;*
 2. *Both parties reaffirm to implement effectively on the ground all past and existing GRP-MILF agreements. Details of implementation shall be discussed by the Panels;*
 3. *Both parties agree to exercise mutual restraint to minimize, if not put an end to, violence in Mindanao;*
 4. To normalize the situation and facilitate the early return of evacuees to their places of origin and allow rehabilitation to proceed, a new arrangement on the ground will be forged by both parties;

5. The Philippine government takes note of the activation of the Bangsamoro Development Agency;
6. *Both parties agree to direct their respective Technical Committees to work on the Implementing Guidelines of the Joint Communiqué signed on May 6, 2002 to ensure that the peace process is not adversely affected by the presence of criminal groups in Mindanao. The Technical Committees will meet within two (2) weeks from today;*
7. The parties agree to improve the existing mechanism for monitoring of the cessation of hostilities including the composition of an observer/monitoring groups as provided for in the Implementing Guidelines on the Security Aspect of the Tripoli Agreement on Peace of 2001;
8. The parties reaffirm the provision on the grant of Safety and Security Guarantees to MILF leaders and members who are directly and principally involved in the GRP-MILF peace talks; and
9. Both parties express their gratitude for the gracious hospitality of the Government of Malaysia in hosting and facilitating the exploratory talks and for continuing its support to the peace process.

Under item no. 1, 'The phrase resolved to undertake steps' means the GRP agreed to undertake appropriate steps to cover the withdrawal of AFP troops from Buliok Complex and recalls of warrants of arrest issued against all MILF leaders and members. The pull out and recalls will be conducted within 4 weeks from today. While the term 'resumption' means formal negotiation will be back on track but Malaysia has to be consulted as agreed by both parties. This item was again reiterated on June 21, 2003 between the GRP and the MILF under item no. 3(b),

'In response to this positive development, the GRP has agreed to undertake the following:

1. Facilitate the judicial process, in coordination with the Department of Justice, leading to the lifting of the Warrants of Arrests filed against MILF leaders and the Reward bounties for the apprehension of certain MILF leaders;
2. Begin the process leading to the phased redeployment of military forces from the Buliok Complex.

It is very clear that the commitment to recall the Warrant of Arrests against all MILF leaders should have been done within four weeks from March 28, 2003 which was April 28, 2003 by the GRP. In the

June 21, 2003 understanding mention again was made to facilitate the judicial process with the DOJ to lift such warrants and cancel the bounties. In the understanding of June 16, 2003 between the GRP and the MILF, the lifting of warrants and bounties was an obligation of the GRP which they will consult with the principal and the GRP agreed to these points. GRP has partially withdrawn from Buliok Complex and returned the Islamic Center to Datu Abbas Pendatun, Sanggunian Member of North Cotabato.'

4. In the June 21, 2003 understanding, the GRP stated that 'The June 20, 2003 MILF Statement entitled 'Policy Statement of MILF Chair Salamat Hashim Rejecting Terror as a Means to Resolve Differences' substantially responds to the need for the MILF to publicly condemn terrorism and terrorist organizations.' The GRP acceptance should have led to the GRP issuances of SOMO at the soonest possible time immediately after June 23, 2003. A meeting of the CCCH was scheduled on June 28, 2003 at Estosan, Cotabato City to be coordinated by Sec. Gonzales and Atty. Ali. The purpose was to re-establish the ceasefire under the agreement of June 2001 and reactivated the LMT's. The Malaysian Monitoring Team will be fielded to monitor the ceasefire all over the areas of conflict. The GRP has already requested Malaysia.
5. As a consequence, it was agreed under the June 21, 2003 understanding that, Item 4 of the GRP-MILF Joint Communiqué of May 6, 2003 signed in Cyberjaya, Malaysia, 'the MILF and GRP shall form an Adhoc joint Action Group against criminal elements in order to pursue and apprehend such criminal elements.' Furthermore, the Ad Hoc Joint Action Group 'will operate in tandem with their respective coordinating Committees on the Cessation of Hostilities.' This will now ensure that there will be joint action against all criminal areas of conflict whether under the territories controlled by MILF or by the GRP. This agreement can be utilized immediately in the matter of the case of Al Ghozzi and company. This can also be utilized in the war against drugs and gambling because the Muslims in the Qu'ran are obliged to fight these two evils as the work of 'Satan.' This are the only two human acts or sins or crimes declared as 'Amal Shaitan' or 'Works of Satan' because those who indulge in gambling and drugs or intoxication are not allowed to pray. This will help tremendously the campaign against the war of drugs and gambling.
6. In the understanding of June 21, 2003, 'On the issue of Chairman Salamat's presence during the peace negotiations, the MILF noted that Chairman Salamat has made known his intention to be present during the finalization of the GRP-MILF Peace Agreement and on the actual signing of the said Agreement.'

The GRP, noting that Chairman Salamat's presence would be much preferred during the talks, will request for Chairman Salamat's presence during the Opening Ceremony for the resumption of formal talks. The MILF Panel informed the PMLF in our talks last June 15, 2003 that Chairman Salamat has agreed to be present in the Opening Ceremony as confirmed to you in the memo of the PMLF.

7. Going back to the May 20, 2003 letter of Chairman Salamat to President Bush, this was actually the 2nd letter. The 1st letter (January 20, 2003) was a reply to U.S. Ambassador Ricciardone when he spoke before the FCAP when he raised the questions: The US Government's desire to know 'What the MILF want or how its (the problem) going to be resolved.' The MILF said 'We take this opportunity to inform Your Excellency that the MILF is a national liberation organization, with leadership supported by the Bangsa Moro People, and with legitimate political goal to pursue the right of the Moro nation to determine their future and political status. As part of this process, we have an on-going negotiation with the Government of the Republic of the Philippines to arrive at a negotiated political settlement of the Mindanao conflict and the Bangsa Moro problem, through the mediation and tender of good offices of the Government of Malaysia.'
8. It is this letter that was answered by the Joint Statement of US President and Arroyo on May 19, 2003 and the speech of Deputy Secretary of State Richard Armitage explaining the new US Policy which was accepted by MILF of their May 20, 2003 letter. The US President instructed Assistant Secretary of State James A. Kelly to reply on June 18, 2003 to the letter of Chairman Salamat dated May 20, 2003. This letter was hand carried by Deputy Assistant Secretary of State Mathew Dailey and met with the MILF officials. The basic points of the letter are:

The United States Government is committed to the territorial integrity of the Philippines.

The United States recognizes that the Muslims of the southern Philippines have serious, legitimate grievances that must be addressed.

The United States wishes to see an end to the violence in the southern Philippines and is working to assist the Republic of the Philippines in addressing the root causes of that violence.

The United States is concerned about the links between the MILF and international terrorist organizations and asks that those links be severed immediately.

The United States stands ready to support, both politically and financially, a bona fide peace process between the Republic of the Philippines and the MILF.

The United States appreciates the notable work that the Government of Malaysia has performed in this connection over the last two years,

and will not seek to supplant Kuala Lumpur; indeed, we seek to work with the Malaysians for a successful peace settlement.

The United States Government will not mediate between the Government of the Philippines, nor will it participate in the negotiations directly. We have asked the United States Institute of Peace, a respected conflict-resolution organization, to encourage the negotiation process in coordination with the Government of Malaysia. The USIP is ready to begin this task as soon as we have a clear signal from you as to your readiness to follow through.

This declaration of the U.S. government addressed to the leader of a revolutionary organizations is a 'First' for the U.S. and World Affairs and also a 'First' for the Bangsamoro Movement because MNLF Chairman Nur Misuari never received such a communication from the US President, particularly at this time when the United States has emerged as the only super power in the world. This policy statement of the US President must be seriously considered by the GRP because of the proposed implications not only in the Philippines or Mindanao or the Asian but in the whole Muslim world. The US offer of political and financial assistance to a bona fide peace process be properly accepted and understood.

It is a rebuff to the peace process because it is considered by the United States as not bona fide or in bad faith. Both parties must seriously evaluate their actions to restore confidence to the peace process.

9. *The assignment of the US government of the US Institute of Peace (USIP) is a direct involvement of the US government because the USIP is a Federal Institution funded by the US government since 1984 with the Congressional mandate and the Board of Directors are all appointed by the President and confirmed by the Senate just like the members of the US Supreme Court. They have already scheduled meeting with MILF and planned exchange of missions.*
10. It is imperative that the GRP and MILF must implement their agreements which are binding international obligations of both parties mediated by Malaysia in March 28, 2003 and June 21, 2003 particularly convening the meeting of the CCCH and simultaneously declare the resumption of the ceasefire under the agreement of 2001 and cancel all the warrants of arrests and bounties against all the accused MILF. This is also the suggestion of the US as well as Malaysia and other OIC countries in support of the appeal of churches and other religious groups and civil society. The conclusion of the US letter to Chairman Salamat clearly manifests the US concern for a peaceful political settlement:

I note with satisfaction that the MILF has declared a temporary ceasefire, which I urge you to extend until a settlement is concluded. Both sides need to refrain from actions that merely perpetuate the cycle of violence. Neither side can win this conflict on the battlefield; however, both the MILF and the Republic of the Philippines can achieve a

lasting victory for the people of Mindanao by coming to a settlement.⁶⁰

The two memoranda played a vital role in convincing President Macapagal-Arroyo to declare the ceasefire on 18 July 2003, five days after the death of Chairman Salamat. His death was only confirmed on 4 August 2003 during the resumption of the meetings of the CCCH to re-establish the ceasefire.

VI. INJUSTICE TO THE MORO IDENTITY

The national identity claims of the Bangsa Moro has been given acceptance by no less than the outgoing President of the Catholic Bishops Conference of the Philippines (CBCP), Bishop Orlando Quevedo, O.M.I. in a paper he read before the 27th General Assembly and Annual Meeting of the Bishops Businessman's Conference, 8 July 2003 which both Prof. Michael Mastura and President Arroyo attended.

Bishop Quevedo, who came from the Christina settlers in Kidapawan, Cotabato cited the loss of political sovereignty as the cause of the poverty, displacement, land-grabbing, and oppression of the Bangsa Moro people. He submitted that if the sultanates were respected and allowed to develop as in Malaysia and Brunei, then all these evils would have been avoided and a century of armed and fratricidal conflict among racial brothers of the Malay race would have been avoided. He stated:

My understanding of the Moro struggle from the late 1960's to the present hinges on this most fundamental issue of Moro identity. It is from this basic issue of Moro identity that the other issues at the heart of the Moro struggle are derived....

Islamic groups spoke different languages and demonstrated great differences in customs and traditions. What brought the communities together into a distinct and identifiable social group was the common religious bond of Islam that totally governed their social structures, their relationships, their values and their way of life. Such unity in diversity was already a reality, long before the term 'Filipinos' came to describe the *indios* colonized by the Spaniards in the second half of the 16th century.

The Muslim communities shared a common political and governmental structure based on the sultanates, with their own defined territories. They also shared a common history of resistance in Spain and later against the Americans. In the 16th to the 18th centuries, the Muslim communities might not have had a sense of distinct political nationhood (as understood today), but they consider themselves quite distinct from everyone else by their adherence to Islam. By the 19th century, Muslim leaders and thinkers were convinced that the Moros constituted one nation, a belief that they

60. *Id.* (emphasis supplied).

impressed on the American colonizing government always with passion and often with violence.

In contrast, Christian Filipinos asserted their nationhood only when the revolution against Spain was launched in 1896, when this sense of nationhood among Filipinos began to be firmed up under American rule, the leaders and thinkers of Muslim communities resisted the attempts to put them under Filipino rule.⁶¹

In light of the above social, political, and cultural history based on their common Islamic belief, it is important to assert that the various campaigns military, and otherwise by Spanish, American, and Filipino governments to subjugate, assimilate, and integrate the Bangsa Moro into the mainstream body politic, apparently without regard to their historical and cultural make-up, is an injustice to the Bangsa Moro's religious, cultural and political identity.⁶²

Even before the Spaniards arrived in the 16th century the Muslim communities in Mindanao already had their own structures of political governance centered on their datus, rajahs, and sultans. They had recognizable territorial boundaries. They were free to govern themselves in their own way, according to their customs, traditions, and the precepts of their religion. They possessed political sovereignty. They waged numerous wars against Spanish forces to defend their homeland and their religion. The death of Rajah Sulaiman, the last Muslim ruler of Manila, at the Battle of Basangkay, off the shore of Tondo 1571, is an initial chapter of the resistance that the Moro people waged against those that threatened their sovereignty.

Before American troops landed in Mindanao and Sulu, Moro military forces strengthened Moro sovereignty by attacking Spanish garrisons in Cotabato, Zamboanga, Sulu, and Lanao. They also dislodged Katipuneros in Cotabato who tried to fill the political vacuum that the Spanish evacuation from Mindanao created.

In 1899, Brig. Gen. John C. Bates and Sultan Jamal-Kiran II of Sulu successfully negotiated the Kiram-Bates Treaty. Informal agreements were also made with the other Moro leaders of Mindanao. The treaty gave due recognition to the Moro religion, customs and traditions. On sovereignty, two versions of the treaty exist. The English version states, 'The sovereignty of the United States over the archipelago of Jolo, and its dependencies, is declared and acknowledged.' The Moro version says otherwise: 'The support of the aid and the protection of the Sulu Island and archipelago are in the American nation.'⁶³

61. Bishop Orlando Quevedo, Address at the Bishops-Businessmen's 27th Annual Assembly (July 8, 2003) (on file with the author).

62. See SALAH JUBAIR, *BANGSAMORC: A NATION UNDER ENDLESS TYRANNY* 127 (1997).

63. *Id.* at 61.

However, the Kiram-Bates Treaty paved the way for the American occupation of Mindanao and Sulu. In 1903, the Moro province consisting of the districts of Sulu, Zamboanga, Lanao, Cotabato, and Davao was created and was placed under the direct supervision of the Civil Governor of the Philippine Islands and the Philippine Commission. In 1904, Pres. Theodore Roosevelt unilaterally declared the treaty null and void. In 1912, Brig. Gen. John C. Pershing, head of the Moro Province, created the first Christian colony of settlers in Mindanao. He was also responsible for the disarmament of the Moros, but not without a fight, as the massacre at Bud Bagsak in 1913 demonstrates.

From 1899 to 1941 there were many Moro military uprisings against the Americans. But gradually through military, political, and educational stratagems, the American government gained de facto sovereignty over the Moro people. Moreover, the introduction of Christian settlers to Mindanao that began under General Pershing in 1912 eventually made the once dominant Moro population into a minority and marginalized them. [In 1913, the estimated population of Mindanao was the following: 324,816 Moros; 193,882 non-Moros. The Moro people constituted a 76% majority. Twenty-six years later, in 1939, the Moro population was only 34% of the total Mindanao population, in 1990, only 19% of the total Mindanao population of 14,269,456 based on the 1990 Census of Population and Housing.] Many Moro leaders vehemently resisted being called Filipinos. They protested against the independence movement of the Filipinos, preferring even to remain under the American flag rather than be independent and be under 'Christian Filipinos.'⁶⁴

From these historical records, one can conclude that for the Bangsa Moro, the gradual loss of their sovereignty to the American government and later to the Philippine government was a fundamental injustice, even though some of their leaders who served in government might have acquired.⁶⁵

After the loss of their political sovereignty, great chunks of Moro ancestral lands were lost. These losses resulted from a long series of legal enactments by the Philippine Commission, the Commonwealth government, and the post-independence government. Moro writers called these enactments as "legalized land grabbing." Land registration, declaration of public land, mining, cadastral surveys, creation of agricultural colonies, procedures for land ownership, land settlements – all these legal realities, often without the proper understanding of the Moro people, drastically reduced the areas of ancestral domain and benefited the Christian

64. *Id.* at 108.

65. *Id.* at 115-16.

population.⁶⁶ By 1976, Moros owned less than 17% of the Mindanao land. They once owned almost exclusively during the pre-Hispanic colonial era.⁶⁷

The loss of their homelands was compounded by government's neglect of the Moro's right to integral development during the Commonwealth and post-independence governments. In all dimensions of human political, economic, educational, and cultural development, the Moro people continued to fall behind their Christian counterparts. The latest national consensus reveals this fact, especially in the aspects of educational improvement, political participation, and economic development. This is indeed a great tragedy.

Indeed, the Bangsa Moro is at the lowest level of Philippine development when one uses the framework that the Estrada government utilized in portraying the root causes of the insurgency. These are the misdistributions of wealth and poverty, double standard of justice, low quality education, low productivity, malnutrition, low purchasing power, criminality, and eco-mainstream, environmental degradation, poor resource base, plutocracy, or government inefficiency, human rights violations, rigged elections, graft and corruptions, and cronyism. The central government in Manila can be faulted for this underdevelopment. However, one cannot also escape the impression that many Moro leaders serving in the government have also failed their own people.⁶⁸

The recognition and support of Bishop Quevedo for the Bangsa Moro Identity claims and the fundamental injustice to the sovereignty of the Bangsa Moro people, which resulted in serious socio-political, cultural, and economic damage to the Bangsa Moro society, is a historic recognition of the Christians of their moral and legal responsibility to give justice to the sovereignty and identity claims of the Bangsa Moro.

As stated by Professor Mastura during the 27th General Assembly and Forum of the Bishops-Businessmen's Conference for Human Development:

Today's discourse assumes that the Moro Islamic Liberation Front, through the MILF Peace Negotiating Panel, is clear about its position on the call for 'principled negotiations' of Her Excellency, President Gloria Macapagal-Arroyo.

This has implication for our understanding of security and security policy to give sense to an educated grasp of the torsion within the body politic and the social order. More to the point, I want to stress that the Terms of Reference (TOR) for what has come to be known in public as the 'Peace Process' is covered by:

66. See *Id.* at 95-97; 102-04; 119-241.

67. *Id.* at 121, citing AIJAZ AHMAD, CLASS AND COLONY IN MINDANAO 7 (1982).

68. See *Id.* at 257-59.

1. The 1976 GRP-MNLF Peace Agreement signed in Tripoli; and
2. The 1996 GRP-MNLF Final Peace Agreement signed in Jakarta.

Taken together with the cumulative Resolutions of the Organization of Islamic Conference, GRP-MILF framework agreements form additional TOR:

1. The 2001 GRP-MILF broad Framework for Resumption of Peace Talks signed in Kuala Lumpur; and
2. The 2001 GRP-MILF issue-specific Framework Agreement of Peace signed in Tripoli.

All in all, these dossier instruments constitute what I refer to as 'Frameworks Document' for negotiated political solutions. Consider that these Frameworks rest on two crucial dimensions to produce the necessary dynamic:

First of all, we have been moving at the levels of domestic and international interactions. Incremental agreements do create GRP-MILF real commitments to bind both Parties to a Final Act of political settlement. The dynamics of the negotiation process is underpinned by the fact that Malaysia, as a Third Party, acts as facilitator by tender of good offices, without glossing over diplomatic practices. With initiative the US Institute of Peace wants to enter the picture.

Secondly, we have been trying to link up peace dividends to the mechanics of implementation on the ground. Procedural steps do operate GRP-MILF basic understandings to motivate both Parties toward acceptable comprehensive political arrangements. All talks of a just peace are driven by the desire to secure unarmed representational means to recognize Bangsamoro identity claims and common interests.⁶⁹

Professor Mastura, who is a senior adviser of the MILF Panel further elaborated:

There are commonly agreed points that make up the core issues.

1. Benchmarks for policy change are built into 'incremental characteristics' of the peace process:

To recognize 'the need for a comprehensive, just, and lasting political settlement of the conflict in Mindanao' (Preamble, Agreement of Peace, Tripoli/2001); and

To consider that 'normalization in conflict affected areas can be achieved if certain principles and guidelines of conduct and action are adhered to by the Parties.' (Agreement of Peace, Tripoli/2001).

69. Michael Mastura, Just Peace: Understanding the Frameworks Document, Address at the Bishops-Businessmen's 27th Annual Assembly (July 8, 2003) (on file with the author).

2. The fundamental guiding principle of consent is in step with a broad framework itself, but specifically pointing to a strategic direction:

The negotiation and peaceful resolution of the conflict must involve consultations with the Bangsamoro people free of any imposition in order to provide chances of success and open new formulas that permanently respond to the aspirations of the Bangsamoro people for freedom (Par. 2, Security Aspect, Tripoli/2001).

3. The rights-based principle of people's struggle is accepted as a broad framework itself, but particularly sustaining a non-derogation status:

The observance of international humanitarian law and respect for internationally recognized human rights instruments and the protection of evacuees and displaced persons in the conduct of their relations reinforce the Bangsamoro people's fundamental right to determine their own future and political status (Par. 2, Rehabilitation Aspect, Tripoli/2001).

As I see it, however, the set of talks that have formulated Guidelines for the Implementation of the Security Aspect and Rehabilitation Aspect is set back by the ambiguity at Cabinet level. Going beyond militarist thinking there is absence of clear-cut strategy and policy aim. Is the war 'on' or none in Mindanao? The fortunes of war smiled on Malacañang at Pitik on 2/11 because of discrepancy between cause and effect of 9/11.

For political effect, the whole Country has the onus to shift the balance between Filipino de-nationalizing authority and Bangsamoro identity claims. Therefore, where no sensible political alternatives are found to deal with the tired colonial 'Moro Problem', there is no minimum position for the MILF to live with or to care for. This holds true to the MNLF. Truth telling reckons that the two national liberation movements trace origins not to terrorism but to a series of massacres of Muslims: Jabidah, Manili, Tran, and Tangub to name but a few.

The dire consequences could be brought to bear before OIC on very real 'Question of Muslims in Southern Philippines' across the Muslim-Christian divide. The we/they outcome is likely to remain prolonged impasse about 'no surrender politics.' What [have] decent people of this Republic done to alleviate the victims from those serious atrocities and numerous abuses? How come there is impunity in this Republic as we recognize familiar faces after many years of similar tales, similar outcomes in negotiations?

If the Cabinet Oversight Committee on Internal Security is serious in giving value to Muslim constructive identity, it should be honest about any real intent to address the political aspirations and serious grievances of the Bangsamoro people. Read from the standpoint of policy goal we can only rely on 'the reality principle: the people, not governments are the sovereign. To say that EDSA 1 and EDSA 2 created trade-offs for governance is to capture the essence of the 'unlooked-for' solutions, changeover of legitimacy, authority, and identity.

Thanks to these and other events, Chairman Salamat says not to bring up 'the Islamic [S]tate' issue in the negotiations believing it is the business of the Bangsamoro people alone, and the Government has nothing to do about it. There are those who among the present generation of Muslim leaders, taking up the cause of the Bangsamoro people's struggle, who assert the need for new generative principles of relation or association with the Philippine Republic. The very term political status in the text of the Frameworks Document denotes not an abstract entity totally disjointed from both ruler and ruled. This meaning of status conflated with the related question of authority allows for participation of people in power, and makes it possible to 'rewrite' the state via a comprehensive compact put to a referendum.

To begin with, a question of terminology: identity claims and national interests need common referents. Among the concrete steps are outlined below:

1. A comprehensive concept of security is rooted in the collective identity of the Bangsamoro People in solidarity with other Indigenous Peoples that links that pivotal relations of their identity claims to common-interests with the political community of the Philippines.
2. The representational balance between primacy of identity claims and the priority of interests, through principled negotiations as well as processes of domestic and diplomatic interactions, is the final political arrangement that must be embodied in a Comprehensive Compact.
3. A Comprehensive Compact is a concrete implementation of security policy consistent with the Purpose and Ideals of the Philippine Republic and to deal justly with the legitimate aspirations and the serious grievances of the Bangsamoro people without recourse to military means or violence.
4. Comprehensive strategies are vital to the consolidation and operation of the incremental agreements as well as the understandings between the negotiating Parties in order to bind them to the Final Act of political settlement of the conflict in Mindanao in context of the Question of Muslims in Southern Philippines.
5. Comprehensive democratic institutions are essential to respond to the aspirations of the Bangsamoro people as stable political arrangements involving much more than coercive policy.⁷⁰

These five points, as the MILF parameters in the Bangsa Moro Identity claims, which is entwined with political status and sovereignty can be rationally discussed within the parameters of national security concerns of the GRP as well as the Bangsa Moro. This must be embodied in an agreement that must be accepted by both parties as binding legally and politically.

70. *Id.*

Professor Mastura also presented the political options for the Bangsa Moro political entity.

The position of Professor Mastura now coincides with the admissions of Bishop Quevedo on "Identity Claims and Sovereignty as a Fundamental Injustice to the Bangsa Moro" as the crux of the conflict which the GRP-MILF negotiations must accept and resolve to continue where the GRP-MNLF agreement of 1996 ended. The issue of Bangsa Moro Identity and sovereignty must be the subject of the final stages of the negotiations to arrive at the final political status for the Bangsa Moro. To quote the enlightened views of Professor Mastura:

Weighing the benefits and advantages of political alternatives, however, we now can redraw the matrix for home-rule comprehensive compact under UN General Assembly Resolution 1541 (XV) of 1960 as reference:

1. Integration into an Independent State;
2. Free Association with an Independent State; or
3. Full Self-Governance.

It behooves upon us regardless of the unintended consequences to realign national integrationist-*cum*-unitarists thinking, at least at the ruling elite level, military, business, and church leadership. The harsh reality is to realize that our task has ceased to persuade the Bangsa Moro people to pay obeisance to a colonial 'expansive logic' of integration. Indeed, generations of Bangsa Moros have never been accustomed to the habits of paying homage to 'Imperial Manila' simply because, the Muslim-Moro inhabitants were never subjects of the Spanish Crown colony. The political expression of Muslimness is Moroism.

At sovereign root, the unaltered Muslim-Moro organic identity has remained a distinct domestic community, with essential attributes or de facto suzerain authority. Bangsa Moros have political indigenous inheritance that continues to attract loyalty and to cause deaths. There is a proviso in 'treaty regime' that the Sultan reserved to cast 'the right to give consent to disposition of any territorial possession,' in which the Bangsa Moro people have a shared interest.

Injustice coupled with insecurity over contested space/domain dimension is a major cause of unrest for a people who value it above all else. Ancestral domains defining the Bangsa Moro homeland constitute their natural wealth and patrimony, and yet, the reality is they do not share in the security of wealth creation of the whole country. What defies Bangsa Moro imagination beyond the nationalist conception of Filipino 'imagined community' is that the Americans were granted parity rights while they were defaulted priority rights. The pursuit of Filipinization of territorial strategy means denial of Bangsa Moro self-determination by birthright ownership of their ancestral domains.

We are all aware that in the course of political changeovers, Moro 'enlightened' countrymen openly expressed their desire for representation

in association with the American modern ideals of democracy, principles of justice, and fair play. Likewise, they reserved their representational project/enterprise before the annexation/incorporation of their homeland into the national territory of the Philippine Republic. Bangsa Moro collective representation has not been decided *a priori* because being a 'Moro Nation' is a consequence of the political process of self-rule in a '50 years time-scale' (1946-1996) after grant of Philippine independence.

You will recognize that it has taken insecurity more than desirability for our new generation of Muslim leaders to confront the actual situation: that the formation of the Philippine unitary state retains its colonial core structure. This form of governance is the stranglehold of *colonisability* over the Bangsa Moro people in that 'imagined community.' This is instructive for our common understanding of security and its relation to Bangsa Moro identity.

Integration option under the present unitary system erodes the very integrity of Muslim distinct domestic community. Accordingly the Bangsa Moro are mindful of the fact that already, by 1972, this Nation State tried to employ full coercive powers in genocidal proportions, thus preceding East Timor or recent European events equated with 'ethnic cleansing.'

Diversity demands the equality of all peoples. This relates to another organizing element: the foundational authority in matters 'vital to Bangsa Moro identity claims and interests. Historically being the definitive people, the Bangsa Moro *ka-datuan* or *ka-rajaan* set up the first organized governments outside Las Filipinas, long before the advent of Republika ng Pilipinas. How is it that actually measured against the Peace of Westphalia, in the emergent state system their status of 'Asiatic Sultanism' (in contrast to despotism) was 'acquired' rather than 'granted' in anarchy itself, with which foreign powers and countries have had effective Bangsa Moro diplomatic relations and dealings in trade.⁷¹

After discussing the historical injustice to the Bangsa Moro people, it is but proper to examine the different constitutional solutions are available in order to address this grave injustice. It is important to note that violence is not the only available means, since other solutions available. One of which is a constitutional amendment. The author shall examine the different options as to their feasibility.

VII. CONSTITUTIONAL AMENDMENT

The infirmities of the New Organic Law are serious that it must be declared unconstitutional especially in view of the power of control of the National Government over the Regional Government as a local government unit when the Constitution only grants the power of supervision over the

71. *Id.*

ARMM. The Organic Law was wrongfully considered and is violative of the fundamental principles of "regional political autonomy." Hence, there is a need for more powers to be embodied in a proper legislative act or in a constitutional amendment.

It is imperative to note that a peaceful political solution be arrived at before the conflagration in Mindanao continues to negatively affect the entire country. On 22 May 2000, Senator Pimentel, together with Senators John H. Osmeña and Francisco S. Tatad, filed a Concurrent Resolution⁷² in the Senate calling for a constitutional convention to revise the Constitution by adopting a federal system of government and for other purposes.

On 14 June 2000, the Senate Committee on Constitutional Amendments, Revision of Codes and Laws chaired by Sen. Miriam D. Santiago, conducted an inquiry in aid of legislation or public hearing *vis-à-vis* Senate Resolution No. 26. Senator Santiago's committee invited, among others, this author as Chairman of the Islamic Directorate of the Philippines (IDP) and former Rep. Michael Mastura of Maguindanao to share their respective opinions and expertise on the subject matter at hand. *This author and Representative Mastura, both agreed that Federalism might satisfy the needs of the Bangsa Moro for a greater say in determining and running their own affairs.*

At the public hearing, Senator Santiago announced that their committee would endorse the said resolution before the Senate. Nothing came out of this move because of the second EDSA revolution, resulting in the removal of Estrada from the Presidency. This year, however, the change to federal-parliamentary form of government is at the core of the debate in Congress whether to do it by Constitutional Convention (ConCon) or Constituent Assembly (ConAss). After the Senate vote, it is clear that the changes in the Constitution will go through the ConCon process. Nonetheless, the federal issue is a main question in the ConCon and Senator Pimentel believes that a federal system will be the best political option because it can create a Bangsa Moro State.

The process of revising the Constitution is a long and arduous affair. First of all, Congress has to pass a bill calling for a ConCon, which the President has to sign into law. The said law may have to be submitted to the electorate in a referendum, unless it was passed by a two-thirds vote of Congress. Then, elections for delegates to the ConCon would have to be held. However, it is still a good option for serious political change. There are new options that may be considered.

A. Bangsa Moro State or Commonwealth

⁷² Senate Resolution No. 26.

The Bangsa Moro supports federalism but only if a truly autonomous Bangsa Moro State or Commonwealth Government is established first as demanded by the Civil Society of Bangsa Moro and as well as the MILF. If the Government again tries to cheat the Bangsa Moro by simply expanding the ARMM and not extend to it the basic powers and rights of a federal state, then the conflict would intensify, as warned by the MILF and other Bangsa Moro groups. In a genuine federal government, such as the U.S., for instance, each state or regional government enjoys certain basic powers and rights. Among them are the following:

1. The power to draft and implement a state or regional government or provincial (as in Canada and Kosovo) constitution;
2. The power to enact and execute laws pertinent to the state only;
3. The power to levy and collect taxes, independent of taxes accruing to the Federal Government;
4. The power to establish a police force that shall maintain peace and order in the state and protect its citizens from danger and Federal Armed Forces can only intervene if called upon by the State Government;
5. The power to establish and maintain political, judicial, social, and industrial structures and organizations for the benefit and welfare of the state and its citizens that conforms to its history, culture, religion, and social institutions. These structures/organizations include state government executive offices, legislatures, courts of law, business corporations, social service agencies, and the like;
6. The power to exploit all natural resources and deposits within the state and give a share to the Federal Government through negotiations, formalized in an Agreement;
7. The right to choose for itself a state flag, anthem, motto, and the like and use them for whatever legal intent and purpose that it may so desire; and
8. The right to enjoy such power and privileges that the Federal Government may extend to it and those that are purely local in character.

Considering the urgency of reaching a peaceful political solution to a problem that has troubled the country for decades, the Philippine government may enter into a binding International Agreement establishing a truly autonomous Bangsa Moro state or commonwealth or regional government as soon as possible. It would be impractical to wait for the ConCon or ConAss to revise the Constitution, as this would take too long. The agreement can be considered a treaty and given constitutional status.

This can be the product of the GRP-MILF negotiations with the participation of OIC countries and the US.

The GRP can propose to the OIC to mediate with the MNLF and MILF to agree to workout a new international agreement under Article X of the Constitution to establish a Bangsa Moro commonwealth or regional government giving it all the powers of a state except foreign affairs and national defense as proposed by former Senators Juan Ponce Enrile and John Osmeña. Even Rodolfo Biazon said that it is all right, as long it will not seek independence. This is possible under the Resolution 02/30 at Tehran OIC-ICFM, No. 15 supporting the Agreement of Unity of MNLF and MILF wherein a united delegation attended the Conference.

The policy conference sponsored by the National Defense College of the Philippines Foundation and the ISIP Foundation of the ROTC UP Vanguard Alumni on 28 April 2000, where this author participated, also recommended the establishment of a Bangsa Moro State in the Philippines, similar to China's "One Country-Two System" policy. This was also the same day when the war in Narciso Ramos Highway started. This solution can be the comprehensive, lasting, and just solution to the Bangsa Moro struggle.

The best political solution may be the creation of a Bangsa Moro State or Regional Government comprising of the Muslim provinces and Municipalities by constitutional amendment and call a provisional constituent assembly composed of elected delegates to enact their state or regional constitution and establish the system of government and election of officials. The State or Regional Government shall be federated to the Philippine Republic. If the solution is effective, then the other regions of the Philippines can be converted to states and form the Federal Republic of the Philippines. The second option, is to recommend a referendum by the United Nations with the consent of the GRP to allow the Muslims only to vote for independence or federal state with the Philippines under the 'One country, Two systems' proposal.⁷³

The central policy issue, as previously mentioned, involves the present constitutional approach to the Mindanao question under Article X of the Constitution implemented by the Organic Act for ARMM in compliance with the MNLF-OIC-GRP 1996 Peace Agreement. The New Organic Act passed by Congress lost because in the nine provinces and nine cities where the plebiscite was held, the majority of Christian voters definitely rejected the New Organic Act. Therefore, the present Constitution cannot solve the impasse in the political solution for Muslim Mindanao. Article X of the

73. Statement at the Policy Conference National Defense College of the Philippines Foundation and the ISIP Foundation of the ROTC UP Vanguard Alumni (Apr. 28, 2000) (on file with the author).

Constitution also involves the establishment of the Autonomous Regional government for the Cordillera but it has also failed.

The proposal to establish a Bangsa Moro State or Islamic Regional Government within the Philippine Republic should also consider the four dimensions of national security, *i.e.*, political, socio-cultural, economic, and military governance. National security is defined "as a state or condition wherein the people's way of life, institutions, their integrity and sovereignty, including their well-being are protected and enhanced."⁷⁴ *It was proposed that the concept must be changed because the Filipinos are not only one people but many peoples' because of our ethnic nations like the Ilocano, Ilongo, Cebuano, Cordillera, Maranao, Maguindanao nations and also as religious communities — Christian Filipinos and Bangsa Moro Muslim people. It was also proposed that national security must not concentrate on sovereignty and territory because the AFP is the protector of all the peoples' and therefore the well-being of all the peoples' must be fully implemented to insure religious, ethnic and communal peace, security, and happiness. The new concept should be read as follows: "National Security is a state or condition wherein the peoples' way of lives, institutions, their integrity and sovereignty, including their well-being are protected, enhanced, and fully implemented to insure religious, ethnic and communal peace, security, and happiness."⁷⁵*

B. Bangsa Moro Islamic Region

Atty. Soliman Santos Jr., in his paper "Constitutional Accommodation of a Bangsa Moro Islamic Region,"⁷⁶ stated that:

A rethinking of constitutionalism and sovereignty should lead to key mutual compromises, as we said, on national sovereignty but not territorial integrity on the part of the GRP and on independent statehood but not Islamic system on the part of the MILF. Then, informed by comparative and international law and practice and by Mindanao's tri-people character, we can create a constitutional structure or space that we might call a Bangsa Moro Islamic Region (BI'R, from the Arabic work BI'R for well of water) within the Republic of the Philippines. What follows is a brief description which could also be the wording of a proposed constitutional amendment (with which there is no need to even touch the rest of the Constitution):

There shall be created a special Islamic region to meet the aspiration for a system of life and governance suitable and acceptable to the Bangsa Moro people who opt for it. This region shall exercise maximum autonomy with independent legislative,

74. *Id.*

75. *Id.*

76. Santos Soliman, Jr., *Constitutional Accommodation of a Bangsa Moro Islamic Region* (2003) available at http://bugsnbytes.triod.com/bb_newsletter_0004_06.html (last visited Aug. 30, 2003).

executive, and judicial powers under an Islamic system, as the Philippine constitutional system shall not be practiced there. This region shall be established pursuant to a peace agreement which shall have constitutional status as defining, among others, the relations of constitutional association between the region and the Bangsa Moro people, on one hand, and the Republic and the Filipino people, on the other hand. The constitutional arrangements shall include personal or cultural autonomy for Moros outside the region, and guarantees for the protection of human rights.

Among the special considerations for this constitutional arrangement are upholding national unity and territorial integrity, securing the blessings of cultural diversity and lasting peace, and taking account of the history and realities of Mindanao.⁷⁷

Atty. Santos emphasized that the BI'R will be governed in accordance with Islam even if it is not called a state or independent. He enumerated the following features that are present in the said system:

1. The BI'R would have a very high degree of autonomy, except for national defense, foreign affairs, and possibly currency. The governing law in this highly autonomous Islamic region would be the *Shari'ah* to the fullest possible extent. The Qur'an, as the first primary source of *Shari'ah*, would be the real constitution of the BI'R. The Qur'anic blueprint covers all aspects of a whole way of life but Islamic governance is the most crucial aspect of an Islamic system.
2. In addition to the human rights regime under the *Shari'ah*, including the status of the *dhimmis* (non-Muslim minorities), the initial common ground of commitment to protect and respect human rights in accordance with the UN Charter's principles and the UDHR [Universal Declaration of Human Rights] should be carried through and eventually cover other international human rights standards, ideally with a unified approach to human rights which covers both individual and collective rights.
3. Aside from common terms of reference which should include human rights and other generally accepted principles of international law, and aside from mechanisms for dispute resolution in cases of conflict of laws and jurisdiction, the constitutional negotiations should also determine relations of interdependency, cooperation, and even protection between the BI'R and the GRP. A highly autonomous Islamic system need not be an enclave unto itself within the Philippine polity. A fair interaction is still the best policy for mutual benefit from cultural diversity.⁷⁸

Moreover, Atty. Santos prefers the BI'R to a Federal system. The basis for this is the concept of autonomy or self-rule. He explains:

77. *Id.* (emphasis supplied).

78. *Id.* (numbering supplied).

1. The BI'R can be established whether the Philippines remain unitary or federal. Be that as it may, autonomy has certain advantages compared to federalism. Basically, autonomy is more purposively addressed to the particularities of an ethno-cultural region, including serving as a conflict-solving mechanism, while federalism applies across the whole country as a national structure — which makes it really another debate.
2. *Autonomy is, therefore, more flexible, with a wide range of options from minimum to maximum, up to just short of full independence. It can also assume a personal nature, as in personal or cultural autonomy, while federalism is always territorial and functional. Autonomy's flexibility also extends to the instruments of creation such as a constitution, statute, treaty or a combination of these, while federalism is usually created only by a constitution. This definition of Autonomy which empowers the Region of state powers short of independence can still hold for a Bangsa Moro state in a federal government or as a free associated state with the Philippines as discussed in the next option.⁷⁹*

C. Independent Bangsa Moro

Meanwhile, Atty. Mohammad Musib Buat, Chairman of the MILF Legal Technical Committee and Spokesman of the MILF Panel, delivered a paper before the first Summit of Muslim Leaders held last 24 April 2003, addressing the question of Bangsa Moro Independent State.⁸⁰ On the question as to whether a Bangsa Moro Independent State is the solution, he declared:

*Why not? The Sultanate of Sulu and the Mindanao principalities were deemed protectorates of the United States of America under the Kiram — Bates Treaty of August 20, 1899. Regrettably, the US President unilaterally abrogated the said treaty in 1904 thereby prompting protest from the Sultan of Sulu. The abrogation of the Kiram-Bates treaty by the US according to some legal scholars had the effect of restoring to the Sulu *de jure* sovereignty over the Sulu dominion and its dependencies.*

The restoration of the Bangsa Moro sovereign statehood is well supported by historical records. It has historical and legal bases under the so-called Moro treaties. While the Philippine state makes use of the Moro treaties for its claim over Sabah, it denies any historical right to the Bangsa Moro people's claim for statehood over its ancestral territories or homeland. Far more ironic is the fact that while the Treaty of Paris of 1898 disregarded Philippine Independence under the Malolos Constitution, it was used by independent Philippines to justify its illegal inclusion of the Bangsa Moro territories in the Philippine national territory.

On the other hand, the restoration of the date of Philippine independence on June 12, 1898 reaffirms President Emilio Aguinaldo's recognition of

79. *Id.* (emphasis supplied).

80. Musib Buat, Address at the PMLF 1st Summit of Muslim Leaders (Apr. 24, 2003) (on file with the author) [hereinafter Buat].

Bangsa Moro sovereign status at the time the first Philippine Republic was proclaimed. As an unincorporated territory of the United States of America, the Bangsa Moro people could well fall under the decolonization principle of the United Nations as a colonized people or nation.⁸¹

Moreover, in a paper entitled "Referendum for Independence or Autonomy: Framework for a Peaceful and Permanent Solution to the Moro Problem,"⁸² presented during the Peace Consultative meeting at Iligan City in 1999, Professors Manaros B. Boransing and Luis O. Lacar of the Mindanao State University (MSU) justified the gains to be achieved by granting independence to the Bangsa Moro people similar to the one given by Malaysia to Singapore, by South Africa to Namibia, by Indonesia to East Timor, and also by Ethiopia to Eritrea, as compared to the continuing violence and war between Chechnya and Russia, Kashmir and India, Amilnado and Sri Lanka, among others.

They stated that should the Bangsa Moro people gain independence through a UN sponsored referendum, then Bangsa Moro will become an independent state. It must fend for its self and use its independence to attain the legitimate aspirations of its people. However, the kind of state that will be established is not yet certain. It could be either Islamic or secular or a mix of both. It could also be patterned after Western democracy models or after Asian democratic states. However, there will be definite gains for the Philippine Republic.⁸³

On the other hand, the gains for the Philippine government are easily identifiable and quantifiable. The great bulk of Mindanao, Sulu, and Palawan or [80%] of the area is already owned and occupied by the Christian migrants and Lumads. The Bangsa Moro dominated areas constitute only about a fifth of Mindanao, Sulu, and Palawan; allowing this area to separate would have no material impact on the Nation's economy. In addition, the Annual National government subsidy to Muslim Mindanao amounts to billions of pesos; specifically the IRA for LGU's and the yearly budget for the ARMM, MSUS, and the Office of Muslim Affairs, etc. The financial subsidy would also include the annual budgetary allocations for National government Agencies with operating units in Muslim Mindanao, like DPWH, DA, DAR, etc. The annual government expenditure for Muslim dominated areas, including those spent by the AFP and the PNP; would roughly add up to about P50 billion annually. All of these billions

81. *Id.*

82. Manaros B. Boransing & Luis O. Lacar, *Referendum for Independence or Autonomy*, Address at the Policy Conference in Mindanao (1999) (on file with the author).

83. *Id.*

would be saved and used for the socio-economic development of the remaining regions in the Philippines.⁸⁴

D. Free Associated State

In the letter of Chairman Salamat on 20 January, 2003 to US President Bush,⁸⁵ Chairman Salamat explained the MILF position regarding the issue which is to obtain a Free Associated State status for the Bangsa Moro. He opined:

On December 14, 1960, the United Nations General Assembly proclaimed the Declaration on the Granting of Independence to Colonial Countries and Peoples under Resolution 1514 (XV). Also in 1960, the UN General Assembly approved Resolution 1541, defining free association with an Independent State, integration into an independent State, or independence as the three legitimate options offering full self-government.⁸⁶

Atty. Buat also presented the option of a Free Associated State in his address at the PMLF 1st Summit of Muslim Leaders:

Under the first option, Gilles Fireagle proposed an Associated Free State of Mindanao (ASIM) (Philippine Star, June 13, 2002). Initially, he proposes that the Republic of the Philippines will give up sovereignty over the islands of Tawi-tawi, Sulu, and Basilan. The inhabitants of these islands will be free to create their own country. The only limitation is that the new country will have to be associated with the Republic of the Philippines. It will be self-governing in all respects, except that it cannot declare war against the Philippines. The Free State of Mindanao as conceptualized will exist for 15 years. On its 16th year, it must conduct a referendum among its citizens on whether or not to continue as an associated free state or return to the folds of the Republic. At the same time, a referendum will also be held, open to all administrative/political units, including the ARMM to determine whether other Philippine provinces and/or cities would decide to join the said free state. Should 50 percent or more elect to join the Free State, then the new state will become an independent nation. This option may not be acceptable to the Bangsa Moro because it divides the people and their historic homeland. The leadership of MILF is also based in Central Mindanao. ARMM will not agree to be so divided because only Lanao del Sur, Marawi City, and Maguindanao will remain in the ARMM for 15 years. The proposal is unconstitutional because the Organic law is based in Article X of the Constitution.⁸⁷

84. *Id.*

85. Letter from Chairman Hashim Salamat, Chairman, Moro Islamic Liberation Front, to U.S. President George Bush Jr. (Jan. 20, 2003) (on file with the author).

86. *Id.*

87. Buat, *supra* note 80.

There are many models of a free state association. An early model of association is that of the North American Indians who were considered dependent nations under treaty relations with the U.S. Federal Government. Based on American jurisprudence, the settled doctrine of law of nations, e.g., the Cherokee Nation, is that a weaker power does not surrender its independence — its right to self-government, by associating with the stronger and taking its protection, through a treaty.⁸⁸

The Treaty of 1878 between Spain and the Sultanate of Sulu recognized the Sulu realm as a protectorate rather than as a territorial possession of Spanish colonial administration. This was officially adopted as a policy by the United States of America in the Instruction of President William McKinley to the First Philippine Commission of 1900. For this reason, the U.S. Congress regarded the Moro Nation as a dependent nation, which is similar to the North American Indians under treaty relations with the U.S. Federal Government. The Treaty entered into between Sultan Kiram II of Sulu and General Bates of the U.S. Army confirmed the protectorate status of the Sulu Sultanate under the Spanish Treaty of 1878.

The most familiar model of a Free Associated State known to Filipinos is the former Commonwealth of the Philippines. Other example can be cited, such as the *Estado Libre Asociado de Puerto Rico* and the British Commonwealth countries of Australia, New Zealand, and Canada. The more recent trust territories of the Pacific islands that became self-governing in free state association with USA in 1990 are the Federated States of Micronesia, Republic of Marshall Islands, and the Commonwealth of the Northern Marianas Islands. Another Pacific island, Palau, became fully self-governing in free association with the USA in 1994.

The Associated Free State can only be established by Treaty or International Agreement between the GRP and the MILF supported by the MNLF and submitted to the Bangsa Moro voters in a Referendum with UN supervision. This option can accommodate the powers under the BIR concept and a federal state concept. What can emerge may be a system like that in the Federation of Serbia and Montenegro, both independent states and Kosovo a non-independent state but part of the Federation or the one between Puerto Rico and USA.⁸⁹

The document "Declaration of Intent and Manifestation of Direct Political Act" issued by the Bangsa Moro Organizations under the umbrella of the Bangsa Moro Consultative Assembly gathered almost a million

signatures was submitted to the Islamic Conference of Foreign Ministers of the OIC. The document was dated 16 August 2000.⁹⁰ The document stated:

We hold these to be the true relationships between the Bangsamoro People and the Filipino People at large:

1. That the concept of 'protectorate' rather than 'territorial possession' was adopted officially by the United States Government in the Instructions of President McKinley to the first Philippine Commission of 1900. The course taken by the US Congress in regard to the Moro population resembled initially that of the Indian tribes as 'dependent nations' until the unilateral abrogation of the Bates Treaty of 1904 that was premised on other matters than 'the *de jure* sovereignty of the Sultan.'
2. That an operative clause in the Treaty of Paris of 1898 was that 'the civil rights and political status of the native inhabitants of the territory Spain ceded to the United States' was to be determined by Congress. Not only did the Philippine Commission not completely concede to the Christian Filipinos the right to govern the Moro population but that considerable autonomy was granted in a separate structure for the Moro Province until 1913.
3. That the governance of the Moro population and other indigenous inhabitants under the Moro province in Mindanao and Mountain Province in Luzon was defined as territorial periods between 1904 and 1914 until the US Congress had finally determined the fate of the Philippine Islands. The unilateral abrogation of the Bates Treaty of 1904 was superseded by the Kiram-Carpenter Agreement of 1915. This later agreement was shrouded by unresolved controversy, with reservation in giving consent to the disposition of any territorial possession of the Sultanate.⁹¹

The Bangsa Moro Consultative Assembly justified these declarations based on the following facts:

In the course of thirty-year transitory period from 1916 to the final grant of Philippine Independence in 1946 by the United States Government, the Moro population and their leaders did not fully relinquish their right to self-determination. Nor had they given up their common identity. With intent and purpose they never waived their political will but adhered repeatedly to the maxim 'no domination of one element over another.' So we seek open, direct democratic justification as such:

As the direct political act of association formed that of a *body politic* so those who were associated with it take collectively the name of *people*, i.e., nation.

88. *Worcester v. The State of Georgia*, 31 U.S. 515 (1832).

89. *Buat*, *supra* note 80.

90. Bangsa Moro Consultative Assembly, Declaration of Intent and Manifestation of Direct Political Act (Aug. 16, 2000) (on file with the author).

91. *Id.* (numbering supplied).

As the exercise of civil rights formed that of a citizen action so those who participated in the political life of the nation share in the power of the sovereign, i.e., government.

As the indigenous ancestry of claims formed that of a homeland so those who occupied it in the name of the *bangsa* institute the ancestral domain, i.e., territory.

Considering, at first, that the Bangsamoro People attempted to reconcile with the idea of a new Government of Mindanao, they were gradually integrated as minorities into the national body politic. Yet the units of political power and governance have not necessarily guaranteed them political justice.

And thus, we hereby reiterate the continuous, consistent, and collective Bangsamoro people's opposition to their unjust annexation into the Philippine national territory and their statutory incorporation without plebiscitary consent on their part. These major assertions of civil rights are fully documented.

1. The Cotabato Memorial of Datus and Persons dated September 30, 1916. Said document acknowledges the benefits of the establishment of the new Government of Mindanao, including the right 'to perform part of the work of the Government' and 'to take part in the making of laws for us.'
2. The Petition of the People of Sulu Archipelago dated June 9, 1921. Said document assails the failure of the Philippine Legislature to pass laws for the Moro people's benefits, citing instances of inadequacy of appropriations, diversion of infrastructure programs, abuses of the constabulary, failure to give justice and equity, and failure to maintain law and order.

Complaints that the executive acts of *Filipinization* has made Mindanao merely the 'dumping ground' for the undesirables of Luzon and the Visayas such as abusive police officers coupled with excessive militarization still prevail as instruments of neo-colonial domination.

Recalling, once more, that the Bangsamoro People moved to propose alter-native solutions to the 'Moro Question' when it became a pivotal issue to the grant of Philippine Independence. Fully documented are the following petitions for redress:

1. The Zamboanga Declaration of Rights and Purposes dated February 1, 1924. Said document petitions the US Congress that 50 years after independence may have been granted to the rest of the Philippines, a plebiscite be held in 'the proposed unorganized territory' consisting of the islands of Mindanao and Sulu and the island of Palawan.

To decide by vote whether the proposed territory will be incorporated in the government of the Islands of Luzon and Visayas, remain a territory, or become independent.

2. The Dansalan Declaration in Protest of Moro Inclusion in Philippine Independence dated March 18, 1935. Said document cites the discriminatory act of Christian Filipinos in that in the Constitution of the Philippine Commonwealth 'no provision whatsoever is made that would operate for the welfare of the Moros.' In the event the American people decide —

To grant the Philippine independence, the islands of Mindanao and Sulu should not be included in such independence.

We do reaffirm the intendment of these declarations for which reason we appeal to the President of the United States and the US Congress to correct the injustice done and/or to rectify it by legitimate means such as a resolution for referendum on the Moro Question under UN supervision.⁹²

Moreover, another document signed by Muslim Organizations entitled *Janji O Ra'yat Bangsamoro* (Covenant of the Bangsamoro People),⁹³ submitted to the OIC, also reiterated the above-mentioned declarations. The Bansa Moro ought to be a Free Associated State. The Covenant provides:

The Bangsamoro People profoundly acknowledges, the great and unselfish efforts of the Organization of the Islamic Conference (OIC) in pursuing the support of the Muslim World to the BANGSAMORO PEOPLE'S EPIC STRUGGLE FOR THE RIGHT OF SELF DETERMINATION as an ancient nation existing before the coming of Islam to the Malay people's and known in the Chinese chronicles as MIN-TO-LANG and ZULO and in the Ortelius Map of New Asia in 1570 as Mindanao, Pahlawan and Zulo long before there was a Philippines, Luzon or Visayas. Mindanao was also called MALUKU BESAR — The Land of Great Kings. Our ancestors accepted ISLAM freely without conquest and STRUGGLED FOR ISLAM (AGAMA), HOMELAND (HU'LA'/INGUD) AND FREEDOM (MARADIKA/MAHARDIKA) for over four centuries against Spain, America and Japan in their attempts on Christianization and colonization as well as the commonwealth and later the Republic of the Philippines for accepting alien and foreign rule and dictation and systematic GENOCIDAL CAMPAIGNS AGAINST THE BANGSAMORO PEOPLE resulting in the loss of over 605 of the historic Homeland in MINDANAO, SULU, TAWI-TAWI, BASILAN AND PALAWAN AND REDUCED THE BANGSAMORO PEOPLE TO A MINORITY STATUS EVEN IN THE SZOPAD AREAS COVERING THE AREA OF AUTONOMY UNDER THE TRIPOLI AGREEMENT OF 1976 thus making it imperative on all Muslims of Bangsamoro to re-establish "PARENTA ISLAMI" (ISLAMIC GOVERNANCE) in our historic territories of the Bangsamoro Sultanates.

Also considering, that the MNLF urged the OIC 27th Islamic Conference of Foreign Ministers (ICFM) at Kuala Lumpur, Malaysia from 27th June to 29th June, 2000 to seriously investigate the failures of the government to

92. *Id.*

93. Covenant of the Bangsa Moro People (July 15, 2000) (on file with the author).

comply faithfully and conscientiously with binding international commitments and obligations to the OIC and MNLF under the Tripoli Agreement of 1976 and the Final Peace Agreement of 1996 sanctioned by the Senate of the Philippines in Resolution No. 50, August 22, 1996 and send a Fact-Finding Mission to establish whether the government will honor or not its obligations under the Peace Agreement by November 2000 to be submitted to the Islamic Summit of Heads of States and Governments, and if, the GRP shall continue to refuse to comply with its obligations, then OIC should accept the Bangsamoro as a member of OIC and the MNLF as the sole legitimate representative of the Bangsamoro people as an umbrella organization form the National Front (Barisan Nasional) with all sectors of the our society to promulgate a state constitution in accordance with Islam and International Law and Practice based on the International Covenant on Civil and Political Rights and Covenant on Economic, Social and Cultural Rights, particularly:

Article I — All peoples have the right to self-determination by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

And in the Final Peace Agreement of 1996, GRP recognized this right of self-determination, stating:

WHEREAS, the MNLF, led by Professor Nur Misuari, inspired by their quest for peace and prosperity and had in the past asserted the right of the Moro people to freely determine their political status and pursue their religious, social, economic, and cultural development.

Considering further, that the MILF leadership believes that it is to the national interest of the Philippines and the Bangsamoro that a solution to separate a Bangsamoro Islamic State be submitted to a REFERENDUM supervised by the United Nations on the issue of INDEPENDENCE OR FEDERAL STATE OR AUTONOMOUS REGION based on historical precedents such as:

1. As Malaysia allowed the separation of Singapore
2. As Indonesia allowed the independence of East Timor
3. As Yugoslavia allowed the separation of Eritrea
4. As Ethiopia allowed the separation of Eritrea
5. As USSR dissolving itself and gave birth to several independent states, including five Muslim states
6. As Israel has agreed to the establishment of the Palestinian authority that may lead to the Palestinian state.

Realizing, that the MNLF and MILF positions can be reconciled under a process wherein the MNLF will exert its best efforts with OIC to make the GRP comply fully with the Peace Agreement only up to November 2000 otherwise it will now apply as a Bangsamoro State as member of the OIC and establish a national Front with all Moro fronts, forces and organizations

which principally refers to the MILF while the MILF is seeking GRP compliance with existing agreements which have been torn to pieces by the artillery and bombs of the military and seeks for the UN REFERENDUM for Self Determination on Independence or Federal State or Regional Autonomy by espousing UNITY OF THE MNLF and MILF and the whole Bangsamoro leadership and petition to OIC to bring to the UN the issue of REFERENDUM for the Bangsamoro people to decide their political status as Fr. Joaquin G. Bernas, S.J. as one of the framers of the 1987 Constitution wrote:

In all of these, moreover, self-determination has never been limited to independence. The heart of the right is the freedom to choose. Thus, for instance while Puerto Rico has chosen to remain with the United States, East Timor, when given the choice, opted for independence.

Although there is no legal authority for secession, there is no obligation on the part of the minorities to stay with states which oppress them if they succeed in seceding and in establishing themselves as new state, international recognition will follow.⁹⁴

It has been contended that the Bangsa Moro was illegally annexed and incorporated as part of the Philippine territory. The matter of dismemberment of the country has been questioned since *the Bangsa Moro Homeland as declared by Bangsa Moro Consultative Assembly and many Muslim organizations as well as the MNLF and MILF.*

When Spain sold the country to the US in 1898, the Bangsa Moro country was independent from Spain and, therefore, it could not have been included in the said sale as claimed by the Moro Sultans and leaders then. The U.S. occupied the Bangsa Moro states by force and created colonies by resettling Filipinos in Mindanao in lands owned by the Moros. This was the same form of settler colonization in the Americas, Africa, Australia, New Zealand that has been historically condemned and these countries are making the separations and restitutions to the colonized peoples.

The Filipinos were given land in Mindanao and Palawan stolen from the Moros and the Lumads. This was illegal annexation because foreign occupation is only valid to acquire sovereignty if the land is *terra nullius* or there is no organized society or even tribal sovereignty as decided by the International Court of Justice (ICJ).⁹⁵ The ICJ opined that tribal societies, even that of nomadic communities, have sovereignty and their independence must be recognized under international law.⁹⁶ This is the legal basis why the

94. *Id.*

95. See *Western Sahara (Advisory Opinion)* 1975 I.C.J. 12 (Oct. 16).

96. *Id.* See also *The Island of Palmas (US v. The Netherlands)* 2 R.I.A.A. 829 (award of Apr. 4, 1928); *Legal Status of Eastern Greenland (Denmark v. Norway)* 1933 P.C.I.J. (Ser. A/B) No. 53.

American Indians, the Canadian Tribes, the Australian Aborigines, and the New Zealand indigenous peoples were all compensated in billions of dollars and new treaties and laws were enacted to enforce these binding international obligations.

The Bangsa Moro sultanates preceded the Philippine Republic by at least 500 years recognized as states by China, Indonesia, Brunei, Mughal, and Ottoman Empires. They were part of the constellation of Malay-Indonesian, Bornean Kingdoms, and later Sultanates, which existed during the eras of the Sri-Vijaya and Majapahit Empires before the coming of Islam. The civilization of the Bangsa Moro is at least a thousand years and they have persevered for half a millennium in fighting for the freedom, homeland, and Islam.

In the Association of Southeast Asian Nations (ASEAN), Moros can claim to be the uncolonized Malay Muslims because Indonesia, Malaysia, and Brunei were victims of European colonization. Dean S. Worcester, Secretary of Interior during the US occupation of Mindanao, wrote "that among the Malay race, it is the Bangsamoro that has attained unaided the highest state of civilization in their Sultanate system."⁹⁷

The U.S. partially succeeded and annexed the Bangsa Moro Sultanates to the Philippines under the illegal treaty of Paris that also liquidated the Philippine revolutionary Government of 1896. ARMM Regional Governor Dr. Parouk Hussin pointed out that the "conflicting histories" must be understood so Bangsa Moro aspirations can be repeated.⁹⁸

The history of the Philippine Muslims is part of the backbone of the historical development of the whole country. Filipino historians like Renato Constantino asserted that no Philippine history would be complete without a study of Muslim development. But it is the victors, as popular adage reminds us, who write history. And as such, even in history, the Moros have been marginalized. The problem here lies in the diverse and numerous historical developments, and, consequently, the different identities that were formed by these events. So different, in fact, that to Christian Filipinos, Moro history and identity is but marginally noted in the history of their nation. Similarly, Moros never considered themselves as integral to the Philippine nation-state.

The Philippine has, in fact, two lines of political and historical developments. The first line, which is the older, came to develop in Mindanao and Sulu. And this refers to the Muslim line of historical

97. Nasser Marohomsalic, Roadmap to the Bangsamoro Islamic State, Address during the Muslim Perspective on the Mindanao Conflict held at AIM Policy Center 18-19 (2003) (on file with the author).

98. Parouk Hussin, Challenge of War and Search for Peace, Address during the Muslim Perspective on the Mindanao Conflict held at AIM Policy Center (2003) (on file with the author).

development. Had not this line been disturbed by western colonialism, Islam might have charted the entire destiny of the Philippine nationhood. On the other hand, external factors swept into the country to bring the second line. This is the product of the great historical experiences of the Filipino people under western rule. It is this diverse historical trajectory that inflames the animosity between the Philippine government and the Moro people. Obliterating one contesting party would have to find a way to respect each other's identities and history, to agree to compromise and meet each other half-way in the true spirit of brotherhood and fraternity.⁹⁹

When the Americans contemplated granting independence to the Philippines, more than a million Moros of Mindanao and Sulu, led by Sultan Mangigin, Hadji Panglima Nuno, Datu Sacaluran, Maharajah Habing, Abdullah Piang and Datu Benito sent a petition to the US Congress.¹⁰⁰ The petition reads in part:

In the event that the United States grants independence to the Philippine Islands... it is our firm intention and resolve to declare ourselves an independent Constitutional sultanate to be known to the world as Moro Nation.¹⁰¹

This declaration was followed by the Dansalan Declaration of 1935 of the same import and held at the Torogan Dayawam Sultanate of which this author was the Sultan for several years and where his family resides.

The Bangsa Moro Civil Society feels that the government should negotiate with the Bangsa Moro with full recognition of their right of self-determination after almost 100 years of U.S. and then Filipino exploitation and oppression of the Bangsa Moro people. The Filipinos should be "Christian" enough to allow the Bangsa Moro to exercise its rights to chart its own destiny in accordance with international law. The Filipinos, confident in their strength in numbers and their superior fire power, would fight "toe-and-nail" to keep the Bangsa Moro Homeland within the Republic. However, Yugoslavia is a lesson that despite its military victory against the seceding states, it lost politically and President Milosevic is under indictment under the International Criminal Tribunal for the former Yugoslavia at the Hague. Insight should likewise be gained from Malaysian history when it allowed Singapore to be an independent state rather than have political turmoil in Malaysia. At present, both countries are the most successful in ASEAN.

99. *Id.*

100. Petition from Sultan Mangigin, Hadji Panglima Nuno, Datu Sacaluran, Maharajah Habing, Abdullah Piang and Datu Benito to the US Congress (Feb. 1, 1924) (on file with the author).

101. *Id.*

The exercise of the right of self-determination does not necessarily mean secession but may be an option for a self-governing but federated Bangsa Moro State or one associated with the Philippines as in the Confederation of Independent States in the former U.S.S.R. or like Puerto Rico and U.S. or a Free Associated state. There could be common security agreements, coordinated foreign policy, and common market arrangements, and this can be discussed and settled peacefully, without bullets but through a peaceful and democratic referendum wherein the Bangsa Moro people will be asked to determine their political status by remaining within the Philippines because the exercise of the right of self-determination does not mean independence automatically as in case of East Timor, and Eritrea, or Singapore.

The political debate must be resolved by the reasonable democratic debates and through the ballots. The GRP should not show lack of confidence in its ability to have its option prevail in the said referendum. It will be like an election but it will finally settle the issue of independence with the acceptance of all parties: the GRP, MNLF, MILF, OIC, the Filipino people, and the Bangsa Moro people. Whatever will be the democratic outcome will be for the best interest of all parties and the Bangsa Moro will no longer be a burden to the Philippine Republic or will it be an obstacle in building a strong nation for the Philippines and for the Bangsa Moro. They can be parts of a federal system like the Federal State of Serbia and Montenegro and the Province of Kosovo.

E. Referendum on the Four Alternatives

Many people, both Muslims and Christians, have already died in the war in Mindanao and more may still die. It is important to bear in mind that a solution will only be effective so long as the parties involved accept the said solution. Therefore, the Bangsa Moro must be consulted first before the government undertakes any action. The Bangsa Moro must be presented with a number of alternatives to choose from. It would not be judicious to try to force the Bangsa Moro to accept a particular solution. To do so would be to invite more trouble and that would be something not devoutly to be wished for.

The MILF and other Bangsa Moro NGO's advocate referendum with UN and OIC participation wherein the Bangsa Moro would be asked to choose one from among the four possible alternatives explained above. The Independence alternative is, undoubtedly, anathema to the government but if it is what the Bangsa Moro demands, the government must accept the latter's decision. This is what happened to end the decades of war between Ethiopia and Eritrea and between Yugoslavia and Bosnia-Herzegovina. The Bangsa Moro enjoys the inalienable right of self-determination. This right is stated as a basic human right under the International Covenant on Civil and

Political Rights¹⁰² and the International Covenant on Economic, Social and Cultural Rights.¹⁰³ Both human rights instruments contain a common provision, which provides that:

All peoples have the rights of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.¹⁰⁴

The MILF contends that as a member in good standing of the UN, the Philippines is obliged to recognize and respect the Bangsa Moro's right to self-determination. The government recognized East Timor's right to secede from Indonesia as East Timor's right to self-determination. Then the government cannot deny the Bangsa Moro its right to freely determine its destiny. If the Bangsa Moro desires independence from the Philippines, then the latter has to accept the Bangsa Moro's decision in a free and democratic manner. The essence of the right of self-determination is the right to choose or decide the political status of a people.

Fr. Bernas likewise agrees with the above-mention position of the MILF, as demonstrated in the cases of Puerto Rico and Quebec wherein the electorate rejected independence. He even recognized the right to secede by an oppressed minority. This stance is in consonance with International Law jurisprudence. He opined thus:

In all of this, more over, self-determination has never been limited to independence. The heart of the right is the freedom to choose, thus, for instance while Puerto Rico has chosen to remain with the United States, East Timor, when given the choice, opted for independence.

This, however, still leaves us with the question of which 'people have the right of self-determination. Is the right possessed by the people as a whole in a given states or do minorities in the state have the right of self-determination?' Again Higgins says that 'the desire for secession of certain groups... will be at its most intense when their human rights are being suppressed. Just as the desire of individuals to leave their country is strongest when their rights have been violated, so the desire of ethnic groups to break away is most noticeable when they are oppressed.' Do minorities, therefore, have the right to secede?

The prevailing doctrine on territorial integrity prevents a categorical positive answer to the question. What international integrity prevents a categorical positive answer to the question[?] What international law [guarantees the protection] of minority rights[?] As Article 27 of the

102. International Covenant on Civil and Political Rights, U.N. Doc. A/6316, 999 U.N.T.S 171 (1966).

103. International Covenant on Economic, Social and Cultural Rights U.N. Doc. A/6316, 993 U.N.T.S 3 (1966).

104. art. 1 (1).

Covenant on civil and Political Rights says: 'In those states in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of the group to enjoy their own religion and to use their own language.'

This, however, does not mean that new boundaries can never be recognized. Although there is no legal authority for secession, there is no obligation on the part of minorities to stay with states which oppress them if they succeed in seceding and in establishing themselves as a new state, international recognition will follow.

I suggest that these developments are very relevant and should be considered in our search for a solution to the Mindanao question.¹⁰⁵

After a presentation of all the available and feasible solutions in solving the Mindanao crisis, one may then ask: Is there really a peaceful political solution? Are all the political remedies expressed mere lip service? An examination of the existing paradigms will reveal that indeed, there is a possible peaceful political solution in order to finally end the Mindanao crisis.

VIII. CONCLUSION

In the peace consultative meeting held at EDSA Shangri-la Hotel, Mandaluyong City on 28 September 2000, which was sponsored by the Negotiation Panel for the Peace Talks with the Southern Philippines Autonomous Groups and attended by almost a hundred participants from the National Security Adviser to active military officers, members of the negotiating panels, Muslim government, and civil society leaders, as well as Filipino leaders concerned with the Mindanao situation, they came up with the following consensus:

That the Mindanao problem has many dimensions to wit,

Historic

Security

Political

Socio-economic Cultural

The Conference agreed that the Mindanao problem must address the following priorities:

1. Historical, Islamic aspirations of the Bangsa Moro people and historical aspirations of the Indigenous peoples as recognized by the Philippine Constitution, International Laws and Covenants.

Respect for the historical, legal, cultural and religious rights of the tri-peoples of Mindanao.

105. Joaquin G. Bernas, S.J., *More on Self-Determination*, TODAY, May 14, 2000, at 8.

2. Political restructuring which may include:
Federal Parliamentary system or
UN referendum on statehood and independence.
3. Adoption by the GRP of a ceasefire policy, whether unilateral or negotiated.
4. Recognition that the only viable solution is a peaceful, negotiated, political settlement.
5. Rejection of any military solution by all parties involved.
6. Pursuit of a process towards peace and development which must be popular, participatory, and inclusive of all sectors, to be led by the Mindanaoans.
7. Integration/inclusion of the peace component in the development programs of the government.
8. Full and effective implementation of the 1996 GRP-MNLF Final Peace Agreement.
9. Undertaking by the national leadership of actions that would ensure that all military actions in Mindanao should/must respect the constitutionally protected human rights as well as other laws and international agreements and pursue criminal elements without quarters.
10. For President Joseph Ejercito Estrada to lead a nationwide media campaign with the churches and Islamic groups, business sector, women's sector, and other peace advocates in the Philippines to eradicate the anti-Muslim prejudices by the media.¹⁰⁶

Unfortunately, then President Estrada refused to consider any of these prescriptions for peace. Instead, he launched an all-out war against the MILF and tried to oust Misuari as ARMM Regional Governor.

Nonetheless, during these past few months there have been two important developments among the Bangsa Moro Muslim Leaders, namely: the First Mindanao Political Forum on 11 March 2003 held in Davao City, and secondly, the First Summit of Peace, Unity and Development sponsored by the Philippine Muslim Leaders Forum held at Midtown Hotel, Manila.

The Davao Conference was convened by Gov. Pax Mangudadatu of Sultan Kudarat Province and Mayor Rodrigo Duterte of Davao City with authority from President Arroyo because of the bombing of the Davao City International Airport on 4 March 2003. A communiqué was issued by the elected Muslim leaders as well as those from the civil society and the civil service. The leaders appealed to President Estrada to consider the resumption of the negotiations with the MILF and evaluate the following measures:

106. Resolution from the Peace Consultative Meeting (Sept. 28, 2000) (on file with the author).

4. The majority of the delegates believe that in view of the turmoil in Muslim Mindanao in particular, and Mindanao as a whole in general, it is imperative that Her Excellency, Gloria Macapagal-Arroyo, issue immediately a 'policy for peace and not war in Mindanao' and provide as the framework for implementation all agreements between the MILF and the GRP to attain a comprehensive peace that will bring sustainable development that must benefit the Bangsa Moro masses and not only a select few.
- 5.1 Separation of forces of the AFP and the MILF under the supervision of the Coordinating Council for Cessation of Hostilities (CCCH) with monitors from Malaysia, OIC or even the United States of America.
- 5.2 Immediate relief and rehabilitation of the refugees and war-damaged areas in accordance with MILF-GRP Agreement.
- 5.3 Establishment of a Joint Task Force of AFP-PNP-MILF and representatives of the Muslim Governors and Mayors to pursue criminals in accordance with law and due process.
- 5.4 Diplomatic demarches between the GRP, Malaysia, and OIC to 'restore negotiation between the MILF and the GRP' after achieving the First Three points to pursue the political solution to the conflict for only peaceful solution can succeed.
- 5.5 The full implementation of agreed socio-economic program agreed to by the ARMM, the Muslim provinces, cities and municipalities outside the ARMM to be funded from national sources, international grants, soft loans, and donations and *wagf* (endowment) from Islamic countries for the improvement of the quality of life and sustainable development of the Bangsa Moro people under the direction of the Muslim Leadership.¹⁰⁷

They presented this communiqué to President Arroyo on 13 March 2003 at Malacañang Palace in the presence of Secretaries, Angelo Reyes, Eduardo Ermita, Simeon Datumanong, Jose Lina, Alberto Romulo and Jess Dureza. The Muslim leaders were led by Deputy Speaker Salapuddin as Chairman and Governor Mangudadatu as convenor. The author was the Chairman of the Plenary Session and signed the communiqué. The President read the entire communiqué consisting of 11 pages and she declared after some discussions for almost an hour that she is for peace and gave instructions to the Cabinet Secretaries on that matter.

On 17 March 2003, she issued a memorandum to Secretary Reyes of DND to order all field officers to consider the impact or violations of human rights before they conduct operations. This was definitely an assertion of the President as her powers as Commander-in-Chief and the exploratory talks between the MILF and the GRP was conducted in Kuala Lumpur.

107. Communiqué from the First Mindanao Political Leaders Forum to President Gloria Macapagal-Arroyo (Mar. 13, 2003) (on file with the author).

On 28 March 2003, a Joint Statement was signed between the MILF and the GRP panels at Kuala Lumpur which was welcomed by the Bangsa Moro people and the civil society as a milestone for peace. The Bangsa Moro leaders were hopeful that this agreement will be implemented because a new member of the GRP panel was appointed in the person of DND Usec. Gen. Antonio C. Santos (Ret.). The technical committees of both panels were scheduled to meet in Davao City 2003 but the bombing of Sasa Wharf again derailed the implementations of the agreements and more violence erupted between the MILF and the AFP.

The PMLF likewise issued a communiqué on 24 April 2003 and submitted it to President Gloria Macapagal-Arroyo who graciously attended the First Summit of Muslim Leaders and inducted the members of the National Executive Committee. The Communiqué related the brief history of the Bangsa Moro Struggle for Federalism or Independence in the 1960s up to the armed struggle under Martial Law, as well as agreements between the MNLF-GRP and the MILF-GRP. The Summit declared that:

It is a matter of Islamic duty and patriotism that all citizens and leaders will not only give lip service to the peace process and be mere onlookers to senseless violence that have been going on for decades, and agreements between GRP and MNLF remains to be fully implemented to benefit all the Muslims and the agreements with MILF remains to be enforced to end the armed conflict between the parties since it is causing the refugee population to rise above 300,000 persons. The fighting must stop and the agreements must be enforced and no sabotage like unsolved bombings be allowed to derail said agreement. We all fully support the peace process but it must be effective, sincere, and immediate.¹⁰⁸

This statement was directed at the suspicious bombings at the Sasa Wharf just like the bombing at the Davao Airport and also to the MILF attack killing civilians in Maigo, Lanao del Norte.

The communiqué also appealed to the President "to consider the dropping of the charges against Nur Misuari of the MNLF and Salamat Hashim with the leaders of the MILF" and instruct "the Secretary of Justice to recommend legal and just solutions to this problem to advance the cause of peace."¹⁰⁹ The Communiqué also stated on the issue on Balikatan 03-1 that there was no consensus between the Sulu mayors and governor and the Sulu Civil Society and recommended consultation with the people and their views must be brought to the attention of the U.S. government. This communiqué was signed by Congressman Salapuddin, Deputy Speaker for Mindanao of the House of Representatives, Chairman of the Executive Committee; Secretary Simeon

108. Communiqué from the Philippine Muslim Leaders Forum to President Gloria Macapagal-Arroyo (Apr. 25, 2003) (on file with the author).

109. *Id.* (emphasis supplied).

Datumanong and Regional Governor Parouk Hussin, Co-Chairman and certified by this author in his capacity as Secretary. *The Bangsa Moro leaders are unanimous in their support for a peaceful settlement of the Bangsa Moro conflict because this state of war in the Bangsa Moro areas will only bring more complicated and intractable problems that will push the use of violence as the primary instrument of both parties to win in the armed conflict.*

In a recent study entitled the "Re-imagination of the Bangsa Moro: 30 Years Hence" by Eric U. Gutierrez, he recommends a negotiated settlement even on the issue of "Negotiated Secession," which is the "Ultimate Test for Moro Nationhood." He states that:

Conditions are such that neither the MILF nor the MNLF can aspire for winning secession through war. Even the Organization of Islamic Conference, which has sustained the Moro cause through the years, officially advocates autonomy. The only way then that nationhood can be won is to continue the process of Moro nation - building while negotiating for secession with the Manila government....

Manila, however, could not evade the secession question for long. If it refuses to negotiate with the MILF on the basis of this agenda, the peace talks will inevitably fail. Having no reason to continue negotiations, the MILF will have a case for a unilateral declaration of independence. It can tell the international community that since Manila refuses to discuss the issue, they have no other recourse but to proclaim their independence and sovereignty, unilaterally. The battle will then become more difficult and painful. Locally, both sides will seek to demonstrate who has control over Moro territory. Internationally, it will be a fight for recognition from the community of nations.

Contrary to conventional wisdom, a negotiation on secession will not necessarily turn Mindanao over to the Moros on a silver platter. If Manila will take that big step of recognizing the right of Moros to self-determination and ultimately to independence, it will force the Moro leadership to prove their case and meet the stringent requirements of nationhood. They will first have to show that they are indeed a people, not only in theory but also in actual practice. One way of doing this is to demonstrate that a majority of Moros backs not only the MILF leadership, but also the cause of independence. This will be through the process of a referendum.¹¹⁰

Dr. Ben J. Kadil of the Department of History of Mindanao State University likewise entertains the same concern, and states that there is a need to form a distinct Bangsa Moro Nation and to allow that nation to exercise self-determination either as an Independent state or a Federal state or even perhaps an Associated Free State or a Bangsa Moro Islamic

110. Eric U. Gutierrez, *Re-imagining of the Bangsa Moro: 30 Years Hence*, available at http://www.ipd.ph/pub/wip/reimagining_bangsamoro-e_gutierrez.shtml (April 2003) (last accessed Aug. 30, 2003).

Region.¹¹¹ Dr. Kadil appeals that the history of Bangsa Moro and indigenous peoples is nothing but a history of struggle and survival in their homeland. They inhabited the region since civilization began five thousand years ago and established their *kerajaan* and *sultaniiyyah* long before colonization by Western powers. Their history was reconstructed not as a history of colonial powers, but of the emergence and appearance of their own societies.¹¹²

Dr. Kalid maintains that this struggle simply means the preservation of Moros as Bangsa, or an Islamic society, and to strive towards restoring a just, equitable, fraternal, and free society that is protected from every form of tyranny (*fitnah*) and ignorance (*jahiliyyah*) that characterized the west, including Filipinos. However, it is sad to note that the Moros or Muslims, have been contaminated by such a cancerous experience. Thus, they must aspire to restore and establish their *Bangsa* — their sense of chastity, pride, honor, dignity, and prestige as an Islamic people sharing a common national ideology, distinct from the rest but part of the *Ummah* or universal Islamic society.¹¹³

The Bangsa Moro, as an Islamic people, must aspire to fulfill their stewardship (*khalifah*), in accordance with Qur'anic injunctions, and not those imposed by the enemy (*satruh*) or evil (*kuff*) forces, in their homeland. This is to restore a *muttaqu* — a God-fearing, just, and upright society — that can redeem majority of their people from the agonizing and miserable future the country is currently or has been actually experiencing.¹¹⁴

The proposed constitutional convention, if it pushes through, should not commit the same mistake of refusing to discuss the constitutional proposals to the Bangsa Moro as like what the 1935, 1973 and 1987 Constitutional Commissions/Conventions did, which only produced constitutions that merely aggravated the conflict in Mindanao. The foremost priority must be to discuss the Bangsa Moro aspirations for the exercise of their historic, legal, and Islamic rights as a federal state, an autonomous Bangsa Moro Islamic Region (BI'R), Free Associated State or even as an Independent Bangsa Moro State to be established by UN Referendum.

Meanwhile, the government position regarding this issue is enlightening. As explained by Sec. Eduardo R. Ermita, Presidential Adviser on the Peace Process and Chairman of the GRP Panel negotiating with the MILF:

First, the negotiation outcome will strongly adhere to the spirit and intent of all past and existing GRP-MILF Agreements;

111. See generally BEN J. KALID, *HISTORY OF MORO AND INDIGENOUS PEOPLE OF MINSUPALA* (2002) for a more exhaustive explanation on the subject matter.

112. *See Id.*

113. *See Id.*

114. *See Id.*

Secondly, the outcome shall lead to the enhancement of the system of autonomous governance for the Bangsa Moro peoples within the context of the Philippine Constitution and with the view of elevating the level of significance of such a landmark constitutional provision.¹¹⁵

The idea of a federal state for the Bangsa Moro was again announced by President Arroyo during her state visit to Brunei Darussalam. Reports state:

President Macapagal-Arroyo yesterday said a federal system might help resolve the conflicts in Mindanao but her spokesperson said her remarks at the general meeting of the Pacific Economic Cooperation Council (PECC) here should not be construed as green-lighting Charter change. 'I believe that some kind of federal system for the Philippines could help solve the problem of Islamic separatism in the South,' the President said in her keynote address.

Press Secretary Ignacio Bunye explained that Ms. Macapagal had already 'agreed in principle' to a federal form of government after a suitable transition period.

But while it was up to Congress to thresh out the details of a federal system, this does not necessarily mean a constitutional amendment, he said.

'Our efforts to address the challenges in southern Philippines are not confined to the battlefield. They are directed at pushing for peace and promoting the economic development that will make peace sustainable. I am working vigorously both in public diplomacy and behind the scenes for proper peace with the Moro Islamic Liberation Front,' [Pres. Arroyo] said.¹¹⁶

Should this government declaration push through, it would open the possibility of a new constitutional formula that will satisfy the Bangsa Moro aspirations yet would still remain within a Federal Philippines.

To conclude, it is proper to quote Prof. Samuel K. Tan, a non-Muslim, Protestant Christian, Tausog Scholar from Siasi, Sulu and who is nationally respected as a scholar, on his observation of the roadblocks to a just, comprehensive, and peaceful political settlement of the conflict with the Bangsa Moro Fronts. Professor Tan explains:

Although the administration is trying its best to correct the imbalance, it is handicapped by at least three perceived roadblocks:

115. Eduardo Ermita, Role of the Bishops-Ulama Conference in the Peace Negotiations, Address at Christian Bishops and Muslim Ulamas Conference for Southeast Asia (Aug. 18, 2003) (on file with the author).

116. Philip C. Tubeza, *GMA: Federal System Might Help*, PHIL. DAILY INQUIRER, Sept. 4, 2003, at A5.

1. The colonial heritage and bias against non-Christians have not been reduced or meaningfully altered but on the contrary have increased in importance.

This fact was revealed by a social-scientific survey of prejudice level by a Filipinas Foundation-Funder team in 1977 supervised by two prominent UP professors, Dr. Alfredo Lagmay and Dr. Ruben Santos-Cuyugan. After thirty years, I repeated the survey but in a comparatively smaller scale and limited to just a seminar group.

The random survey indicated an alarming increase, not decrease, in mutual levels of prejudice between Christians and non-Christians. The implication becomes quite pronounced against the background of numerous peace process initiated by the government and the private sectors in the local, national, and international levels.

2. The increasing level of frustrations of the marginalized sectors regardless of differences, on account of the State's inability to full redress their grievances and satisfy their needs. The frustration has been ideologically transformed into Islamic fundamentalism in the case of the Muslim community and into Marxist-Leninism in the case of the poor masses. Lamentably, the State does not have as yet an ideological answer to either the Islamic or Marxist-Leninist paradigm beyond palliatives for hungry mouths and homeless families and rhetorics and propaganda for the tri-media.
3. The unwillingness of the individual and corporate sectors that control the economic resources and potentials of the region from within or without, to equitably share the greater part of their profits and incomes with the masses. In short, there is an absence of true altruism which should be the controlling principle in our capitalist system — if such system were to truly serve the ends of social justice and the universal principles of Christian, Islamic and animistic ideology.

*Lastly, it is imperative to conclude that the search for a lasting breakthrough in the Mindanao peace process might ultimately be found in what genuine federalism can offer to a highly pluralistic society as the Philippines, a society marked by increasingly irreconcilable religious ideologies and by diverse ethnic traditions that refuse to die. The merits of federalism as an approach to the nagging Mindanao problem had been recognized as far back as the Malolos Republic. No less than Gen. Emilio Aguinaldo advocated this system to integrate the various sectors that constituted the national community. Surprisingly, even, James Blount in his *The American Occupation of the Philippines, 1898-1913* supported this model and even suggested the structural justification for federalizing the whole archipelago. In short, the government must seriously consider federalism if it wants to pre-empt the inevitable implications of social*

movements that advocate either independence or radical reform of society.¹¹⁷

Maybe under a federal government, if a Bangsa Moro state or states will be established to the satisfaction of the Bangsa Moro, Mindanaoans, Lumads, and the Filipino people as whole, genuine peace and a comprehensive political solution will be achieved. Such an aim should accommodate the Bangsa Moro Identity claims, the protection of their ancestral domains and ancestral lands, the preservation and enforcement of the *Sharia* Judicial system, the *Madrasah* Islamic Education, authority on local peace and public security, effective Islamic governance and clean elections, meaningful participation as partners in Federal governance, and other Bangsa Moro concerns. When that day happens, peace and harmony will finally be attained, through the Grace of Allah, *Insha-Allah*.

117. Dr. Samuel K. Tan, Address during the Muslim Perspective on the Mindanao Conflict held at the AIM Policy Center 6-7 (2003) (on file with the author) (emphasis supplied).

The Federal System of Government: The Key to National Development and Mindanao Peace*

Senator Aquilino Q. Pimentel, Jr.**

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I. INTRODUCTION

The proposal to adopt the federal system¹ of government for the country is intended (1) to hasten our economic development and (2) to establish the

* This is an abridged version of a paper read by the author at the University of the East Foundation for Research and Advanced Studies, Inc. Lecture Forum, Aug. 6, 2003.

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1. BLACK'S LAW DICTIONARY 1415 (7d ed. 1999) states that a federal state is a composite state in which the sovereignty of the entire state is divided between the central or federal government and the local governments of the several constituent states; a union of states in which the control of the external relations of all the member states has been surrendered to a central government