

Autonomy or Secession: Analysis of the Constitutionality of the Bangsamoro Basic Law

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For many years, the Muslim rebels in Mindanao have been engaged in armed struggle against the Government of the Philippines (GPH). Conflicts between the parties are primarily rooted on the former's call for self-determination. The GPH, however, has been trying to reach a middle ground with the Muslim rebels by entering into different peace agreements with the latter.

In 2014, the GPH reached a new level of understanding in the peace process with the Moro Islamic Liberation Front by signing the Comprehensive Agreement on the Bangsamoro (CAB). This agreement is the entry point for the creation of a Bangsamoro autonomous political entity, whose powers and limitations shall be defined by Congress through legislation. Presently, Congress is deliberating on the proposed draft of the Bangsamoro Basic Law (BBL). However, as early as Congressional deliberations, the BBL has not been free from questions and criticisms, particularly its conformity with the Constitution.

In this Essay, the Author analyzes the constitutionality of the BBL, along with its possible repercussions on the different branches of government. A historical account is provided by the Author to contextualize the current status of the Muslim conflict in the Philippines. This is followed by the Author's discussion on the pertinent provisions of the BBL, which in his view, violate the Constitution.

The Author argues that there is danger that the CAB, along with the BBL, would lead to a creation of a new state and not merely an autonomous region contemplated by the Constitution. This is manifested in the BBL as it grants the Bangsamoro all the inherent state powers — police power, taxation, and eminent domain. It also extends to the problem of dismemberment of the Philippine territory by delineating the core and contiguous territory of the Bangsamoro. The Author emphasizes the consequences of granting certain exclusive powers to the Bangsamoro, including exploration and utilization of natural resources, creation of GOCCs, and alteration of boundaries of political units, among others.

Ultimately, the Author notes that the constitutional problems of the BBL are mainly rooted on the vagueness and imprecision of the language used. The Author further concludes that for the current draft of the BBL to prosper, the ultimate solution is a constitutional amendment. Thus, the BBL must be fixed to clearly define its terms and prevent conflicting and differing interpretations.