



Paving the path for peace



The Peace Council Report
on the Bangsamoro Basic Law

Paving the path for peace

**The Peace Council Report
on the Bangsamoro Basic Law**

Introduction

“The Bangsamoro Basic Law is a path to peace. While the BBL will not solve all the problems of the country or of the autonomous region, it is a foundational element, a necessary first step, without which many worthy initiatives cannot even be tried.”

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The Peace Council and its Report on the Bangsamoro Basic Law

What is the Peace Council?

The Peace Council is an independent group of citizen leaders who conducted a study of the proposed Bangsamoro Basic Law (BBL), the legislation that is intended to embody the provisions of the Comprehensive Agreement on the Bangsamoro (CAB) between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF).

During the celebration of the anniversary of the CAB on March 27, 2015, President Benigno S. Aquino III announced that he had requested five respected citizen leaders to act as convenors of an independent Peace Council: Manila Archbishop Luis Antonio Cardinal Tagle, former Chief Justice Hilario Davide, Jr, businessman Jaime Augusto Zobel de Ayala, former Philippine Ambassador to the Holy See and Malta Howard Dee, and founder of Teach Peace, Build Peace Movement, Bai Rohaniza Sumndad-Usman.

In response to the President's invitation to gather other responsible leaders from various sectors to spearhead a National Peace Summit to deliberate on and discuss the BBBL, the original five (5) convenors agreed

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

to expand the Peace Council's composition to include other co-convenors who, like them, are pro-peace and pro-dialogue.

Why was the Peace Council constituted?

In his speech during the celebration of the CAB anniversary, the President lamented that the Mamasapano incident created many doubts in the minds of Filipinos, and sidetracked the objective evaluation of the proposed Bangsamoro Basic Law (BBL). In this context, the Peace Council was envisioned to independently scrutinize the proposed law in a way that tempered the prevailing strong emotions, after which the report could be made public to assist national discussions on the BBL.

What is the role of the Peace Council?

In a statement released to the public, the convenors explained their role:

We would like to emphasize that we are not a pressure group or a political movement; but rather, we are a group that would like to provide an avenue for dialogue between independent-minded citizens who believe in the importance of understanding the BBL and to discuss its implications for peace and development in our country at a fair and reasonable manner. We have no intentions to go beyond our self-imposed task of helping ourselves and our fellow citizens understand the importance of the peace issues at hand.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

What are the major objectives of the Peace Council?

On April 7, 2015, the five convenors had their first meeting with the expanded Peace Council, where 27 identified co-convenors joined the five original convenors. During the meeting, Mr. Zobel de Ayala explained the role of the Peace Council and presented its key objectives as follows:

- Assert citizens' support for peace and development
- Affirm the validity of pursuing a law to govern with meaning and authority the autonomous Bangsamoro region
- Clarify contentious issues
- Ascertain the worthiness of BBL as the needed implementing legislation of the Comprehensive Agreement on the Bangsamoro

How did the Peace Council conduct its analysis of the BBL?

During the April 7, 2015 meeting, the Peace Council decided to divide the members into four clusters, namely: (1) Constitutionality and Forms and Powers of Government (with Chief Justice Davide as chair); (2) Economy and Patrimony (with Mr. Zobel de Ayala as chair); (3) Social Justice and Human Development (with Ambassador Dee and Ms. Sumndad-Usman as co-chairs); and (4) Human Security (Peace and Order) (with Retired General Alexander Aguirre and former Secretary Edilberto de Jesus as co-chairs).

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

In the two weeks that followed, the four clusters then proceeded to work on their assigned issues and conducted a series of meetings. Each cluster adopted its own processes and invited other participants and resource persons to the discussion sessions to further enhance the collective knowledge, expertise, experience, and wisdom of the groups. The clusters benefitted from previous studies and from resource persons who presented views informed by years of studying and attempting to resolve the issues. The entire process involved the free-wheeling exchange of ideas and views, asking hard questions, seeking clarification, engaging in debate and argumentation.

On April 18, 2015, the Peace Council convened in plenary, and the four clusters took turns in presenting the results of the cluster discussions. The convenors were joined by those who had attended the various meetings of the four clusters.

After the April 18, 2015 discussion, what happened to the Peace Council's findings on the BBL?

After the April 18, 2015 plenary discussion, the Peace Council prepared a comprehensive fifty-page report on the findings of the four clusters, incorporating the discussions and recommendations during the April 18th plenary meeting.

The report was then submitted to President Aquino, and presented before the House Ad Hoc Committee on the BBL, headed by Congressman

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Rufus Rodriguez, (on April 27, 2015) and before the Senate Committee on Local Government, headed by Senator Ferdinand “Bongbong” Marcos, Jr. (on May 5, 2015). Copies of the report were also given to Senate President Franklin Drilon, Speaker of the House of Representatives Feliciano Belmonte, Jr., Presidential Adviser on the Peace Process Teresita Quintos-Deles, and other government officials. The report was also made available to the media and the general public.

What are the major conclusions of the Peace Council?

In its report, the Peace Council concludes that, overall, the BBL is overwhelmingly acceptable and deserves the support of all Filipinos. On some provisions that needed some refinement, the Peace Council presents its recommendations.

The Peace Council reiterates that the BBL seeks to implement the constitutional mandate for autonomy enshrined by the 1987 Constitution. The report emphasizes that autonomy, and peace and development, all constitutional mandates, have become inseparable. The Peace Council stresses that the BBL will bring benefits that will redound not only to the Bangsamoro but to all Filipinos. The potential for development in the autonomous region will mean greater productivity for all.

Pointing out that peace-makers on both sides have spent no less than 17 years of negotiations, the Peace Council contends that the BBL should be passed, and that to set it aside now would be imprudent and wasteful of

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

previous efforts. According to the Peace Council, there is enough goodwill on both sides to bring this agreement to its conclusion.

The Peace Council clarifies that the BBL is not just about the grant of autonomy. It should not be seen as merely a matter of division of powers, resources and responsibilities, between a national government and an autonomous region. The BBL should be understood for what it really is, an instrument to pursue social justice and development, for the constituents of the autonomous region, for the entire Mindanao, and for the country in general.

As can be seen from the discussion of the cluster reports, Social Justice and Human Development constitute an indispensable component of the Peace Council's review of the BBL. There was consensus that there are larger governance and justice issues not only in the autonomous region or in Mindanao, but in the entire country, that should be addressed beyond the BBL.

The Peace Council concludes its report by affirming that the BBL is a path to peace. While the BBL will not solve all the problems of the country or of the autonomous region, it is a foundational element, a necessary first step, without which many worthy initiatives cannot even be tried. The Peace Council asserts that the BBL is a momentous opening for opportunities for a new beginning, to correct the mistakes of the past, to craft a better future.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

What are the major findings of the Peace Council's Cluster on Constitutionality, Form and Powers of Government?

The Cluster analyzed main principles and contentious issues, which are grouped together into the following major categories: (a) Statehood, and Form/System of government; (b) Intergovernmental Relations; (c) Justice System; (d) Constitutional Bodies; and (e) Plebiscite.

The Cluster's analysis of the major contentious issues on the BBL led to the following major findings:

- **The BBL does not vest statehood to the Bangsamoro Government. The provisions on “people,” “territory,” and “self-determination” are not vestiges of a separate state, but are consistent with the constitutionally mandated creation of autonomous regions.**

First, defining a ***Bangsamoro People*** does not create a new citizenry or nationality. The definition of “Bangsamoro People” in the BBL is only an affirmation of identity, not a definition of citizenship in the Bangsamoro area. The word “peoples” is used as a descriptive term with respect to “Indigenous Peoples”, of which the Bangsamoro People is a part. There does not appear to be any indication or intent to create a new kind of citizen. The non-Bangsamoro do not lose civil or political rights, and qualifications for candidacy in the Bangsamoro do not require identification as a “Bangsamoro People”. Second, defining a ***Bangsamoro territory*** does not create or imply an

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

independent state. The word “territory” whether in legal or on ordinary parlance means generally an area under a particular jurisdiction. An area with its own defined area, jurisdiction, or rules does not make that territory independent from its parent State. As with the current ARMM Organic Act, there is even a declaration in the BBL that the Bangsamoro territory “shall remain a part of the Philippines.” This is an unequivocal rejection of the idea of statehood. Third, the right of **self-determination** is a right of all peoples and is not equivalent to the right to statehood. Its claim and use in the BBL is not a promise of secession but a declaration of a right all Filipinos possess. The Constitutional promise to the Muslim Mindanao and the Cordilleras of their own autonomous region is itself recognition of the need for the peoples identified therein to exercise differently their own right to self-determination as part of the larger Filipino nation.

- **The Bangsamoro Government, as constituted in the BBL, is compliant with the requirements of the Constitution. The government, with an executive department and legislative assembly, has officers that are elective and representative of the constituent political units.**

The **Parliamentary Form of Government** for the Bangsamoro is permitted by our Constitution. The prescribed unitary and Presidential form of government established in the Constitution refers to the national government. When it comes to the government of autonomous regions, however, the Constitution only requires that it

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

shall consist specifically of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. This is met in the BBL even though the Chief Minister of the Bangsamoro Government is elected by the Bangsamoro Parliament and not directly by the electorate, as there is no requirement in the Constitution that the autonomous region's chief executive be directly elected by the electorate. In fact, Congress may provide a different government structure within all local government units. The Constitution only requires Congress to "enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization...." What structure is "more responsive" and "accountable" is left to the wisdom of legislature.

- **The inter-governmental relation between the National Government and the Bangsamoro Government is consistent with the allocation of powers mandated by the Constitution. The defined relationship between the National Government and the Bangsamoro Government embodies the essence of genuine autonomy, based on principles of subsidiarity and solidarity.**

The powers of government are classified in the BBL as: (1) those that are reserved to the Central Government; (2) powers that are concurrent between the Central Government and the Bangsamoro Government; and (3) powers that are exclusive or devolved to the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Bangsamoro Government. This allocation of powers is consistent with the mandate of the Constitution. The recommendations of the Cluster only pertain to minimal revisions and additional wordings. The grant of exclusive powers to the Bangsamoro Government is not tantamount to a superior Bangsamoro Government or a weakened Central Government. It only refers to powers that are devolved to the Bangsamoro Government, which remains under the Central Government, but as an autonomous region. Intergovernmental relations in the BBL refer to the concept of devolution as inspired by the principles of subsidiarity. The President exercises general supervision only over the Bangsamoro government as required by the Constitution. This is clear in the BBL, and there is no provision that indicates a reduced power of the President. The enumeration of powers given to the Bangsamoro parliament under the BBL is consistent with the Constitutional provision.

- **The Supreme Court and the Constitutional Bodies continue to maintain the powers that are given them under the Constitution. There is neither substitution nor diminution of powers intended or effected by the creation of the Bangsamoro human rights, auditing, civil service, and electoral offices.**

Art. X, Sections 5, 6, and 7 of the BBL provides for the establishment of Shari'ah Circuit Courts, Shari'ah District Courts, and a Shari'ah High Court, respectively. These provisions are within the power of

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Congress to define and expand the jurisdiction of courts. Under the Constitution, the Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts. (Article VIII, Section 2). Hence, this legislative power can be included in the additional matters that the Congress can authorize the autonomous region to possess. Furthermore, it should be clarified that Judicial Authority is not being granted the Bangsamoro Government. It must be noted that, in BBL's Article VII on the Bangsamoro Government, there is a set of provisions on the parliament, and a set of provisions on the Executive Officers, but none on a judiciary. Judicial power remains with the Supreme Court, which is vested by the Constitution with such power (Art. VIII, Sec. 1, 1987 Constitution). The BBL envisions the creation of special lower courts under the control and supervision of the Supreme Court. Despite the BBL's provision stating that the decisions of the Shari'ah High Court shall be final and executory, such decisions shall still be subject to the review powers of the Supreme Court.

The BBL introduces the creation of the following bodies: 1) Bangsamoro Human Rights Commission, 2) Bangsamoro Auditing Body, 3) Bangsamoro Civil Service Office, and 4) Bangsamoro Electoral Office. The wording of the BBL is clear. The Bangsamoro special bodies were created with the goal of supplementing, not supplanting, the work of their national counterparts. As such, sections which provide for the creation of these Bangsamoro bodies include the clause, "without prejudice to the powers, authorities, and duties" of

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the National Constitutional bodies (for the civil service and the auditing bodies), and the clause, “shall have a coordinative and complementary relationship” (for the Human Rights Commission). The way that the BBL is structured would show that the powers exercised by the Bangsamoro special bodies are *not exclusive powers but concurrent powers* meant to be exercised in a coordinative and complementary manner with the National Constitutional Bodies, and without prejudice to the constitutional bodies’ exercise of their respective mandates and powers under the Constitution.

- **The plebiscite requirement in the BBL adheres to the provision of the Constitution on the process for creation of the autonomous region.**

For the establishment of the Bangsamoro and the determination of the Bangsamoro territory to take effect, the BBL requires the ratification of the BBL itself by majority of the votes cast in a plebiscite in the geographical areas enumerated therein. This plebiscite requirement adheres to the Constitutional provision on the process for creation of the autonomous region. The Constitution is categorical in saying that 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. (Art. X, Sec. 18)

In conclusion, the Cluster declares that the BBL complies with the Constitution’s mandate for the creation of autonomous regions, “within the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

framework of (the) Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.”

What is the Cluster’s general framework in its analysis of the contentious issues?

The Cluster’s analysis of the BBL is premised on five interrelated propositions that serve as the over-arching framework for the Cluster’s task:

- **First, the passage of a law that creates an autonomous region is a constitutional mandate.** Unlike ordinary legislation, the passage of the BBL is not merely part of the regular exercise of the State’s legislative powers. It is the performance of a sacred constitutional duty. Viewed differently, as the eminent constitutionalist Fr. Joaquin Bernas, SJ, would put it, the establishment of the autonomous regions is not a question of privilege, but a question of right, for the regions that were guaranteed autonomy.
- **Second, the passage of an organic law for the autonomous region is compelled by the imperative of correcting the injustices of the past, the urgency of the socio-economic-political context at present, and the uncertainty of having a similar opportunity in the future.** The negotiations for a Bangsamoro peace agreement have dragged on for 17 years. The result is an autonomous law that broadens the original one

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

and more fully complies with our government's Constitutional promise and duty. With the Aquino government's commitment and the trust that it has generated among the Bangsamoro people, the current context provides an auspicious timing for the creation of the Bangsamoro Autonomous Region. And with the fast approaching elections, and the upcoming transition in government, further delay in the completion of the process could effectively derail the peace agreement.

- **Third, autonomy, especially in the context of the Constitution's mandate for the creation of autonomous regions is, in itself, a peculiarity, and the region that is given autonomy must be recognized and respected for its uniqueness.** Autonomy and self-governance are not equivalent to independence or statehood. It is a statement of national unity achieved not just by acknowledging human diversity, but allowing diversity to thrive. The Autonomous Regions were created as special local governments that were distinct from the territorial and political subdivisions existing prior to the 1987 Constitution. The specific provisions on the Autonomous Regions are not just token statements about the internally diverse histories and cultures of the Philippines. They are a recognition that, despite decades of trying, these different cultures had not been served in any effective way by the national government. The Constitution therefore contemplates that within the single democratic and republican Philippine State, Congress would create Autonomous Regions that could exercise all traditional powers of government:

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

police power, taxation and eminent domain, *in the same way as all local government units*, but would enjoy less interference from the national government. This flexibility and freedom given to Autonomous Regions is the only way they could successfully chart their own unique path.

- **Fourth, the BBL must be understood as an extraordinarily special law, not only because of its nature as an organic act, but also, and more importantly, as an embodiment of a peace agreement, the product of prolonged negotiations.** The BBL is not an ordinary legislative proposal that comes into being merely with the sponsorship of a legislator or a group of legislators. It is likewise not comparable to a number of legislative proposals that came out of a process of drafting by stakeholders, and, eventually, picked up by champions among the legislators. The BBL is a product of a peace agreement, forged after decades-old peace negotiations, borne out of the country's exhaustion with war. The negotiations were done with the participation of international facilitators and observers. The drafting of the BBL underwent an elaborate process, even necessitating the creation of a composite Bangsamoro Transition Commission. Understanding the nature of the BBL will place greater significance on the legislative process and put it in the proper perspective. The legislative process must be seen as an indispensable and final step to complete and implement the agreement. Legislators are not only policy formulators, they become peace-builders.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- **Fifth, the Constitution must be interpreted liberally, so as to give life to its provisions, and allow the fulfilment of the decades-old mandate for genuine regional autonomy.** In interpreting the BBL, any doubt must be construed liberally, and not restrictively, so as to give life to the constitutional mandate. This includes the creation of autonomous regions, self-determination, equal protection, social justice and human rights, all under a regime of peace. If there is a possibility for both an interpretation that is constitutional and an interpretation making a law unconstitutional, the more liberal interpretation that renders the law constitutional in favor of peace should be adopted. The BBL does not guide the interpretation of the Constitution; the Constitution guides the interpretation of the BBL.

What are the major findings of the Peace Council's Cluster on Economy and Patrimony?

In conducting its analysis of the BBL, the Cluster reviewed the relevant articles of the BBL and related resource materials such as the Bangsamoro Development Plan (BDP), consulted with BBL experts and stakeholders, and held a detailed discussion of the BBL with members of the Cluster and resource persons. The Cluster, upon review of Article XIII of the BBL pertaining to Economy and Patrimony, finds no major contentious issues. Most of the potential issues the group identified merely required clarification and could be addressed through the provision of more detailed information or explanation. The group also looked into the salient points of the Bangsamoro Development Plan and read relevant

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

articles and agreed that the Bangsamoro is already making great strides in establishing a favorable socio-economic framework for investment.

In the plenary discussion, it was pointed out that the bottom line for the private sector is how the passage of the BBL and the eventual establishment of the Bangsamoro government will ultimately benefit the investment environment and the economic growth in the region. The plenary recommended, however, that the opportunities in the Bangsamoro should be highlighted, not only for the business sector, but also for the consumers, Muslims, Christians and Lumads alike. Likewise, there is a need to underscore the positive aspects of having a Bangsamoro government, such as the attraction of new markets, especially consumers coming from Arab countries, and increased engagement with Muslim Southeast Asian countries, such as Indonesia and Malaysia.

Private sector development comes with sourcing raw materials from natural resources, hence, together with opportunities, the Bangsamoro region also creates the possibility of exploitation and unequitable distribution of the benefits derived from increased economic activities and growth. This concern raises the question on social justice as a framework of the BBL and its relation to the use of natural resources in the area, especially the exploitation of areas that are under the stewardship of marginalized communities, such as the native indigenous peoples, and the impact of such activities to the poor.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

It is in this context that the provisions stipulated under Article XIII, Section 8 of the BBL is raised, wherein the protection and conservation of natural resources is given priority, among others. The plenary also arrived at a conclusion that proper stewardship of the environment in relation to provisions on social justice is a question of governance and leadership in the future Bangsamoro government. The BBL presents an opportunity for the leadership to do it right from the very beginning. The business sector, as they become part of the community they enter, can reset its development framework by helping the leadership and locals do things right from the very start.

The plenary highlighted the importance of “common good,” which is deemed as a concept that defines the effect of social justice, and upheld its position that the poor should be the center of human development and social justice in the Bangsamoro.

What are the key learnings of the Peace Council’s Cluster on Economy and Patrimony?

There are a number of key learnings important to the business sector that the Cluster has arrived at from its review of the BBL and related resource materials, and from in-depth discussions within the group conveners and its resource persons:

- **Devolution is already happening.** A review of the draft of the BBL needs to include a review of existing national laws and government policies, for one to understand the level of devolution

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

of national laws, particularly decision-making and implementation authorities, to the local government level that is already occurring. One example is that departments such as the Department of the Environment and Natural Resources (DENR) have had certain authorities devolved to local governments, including the Autonomous Region for Muslim Mindanao (ARMM).

- **BBL provides an opportunity, not a problem.** The Peace dividend that the BBL offers can open up tremendous opportunities for investment in Mindanao in a whole range of sectors, which will in turn generate much needed jobs. With jobs, the youth will be less vulnerable to the siren call of violence and extremism. Moreover, the BBL can actually provide an opportunity to explore flexibilities allowed by the constitution and national laws in a smaller area of coverage that can then be replicated elsewhere if found to be successful.
- **Political autonomy cannot be achieved without fiscal autonomy.** In this respect, a robust private sector is seen as critical, particularly as the tax base within the Bangsamoro areas has been extremely narrow.
- **BDP is a critical step in strengthening the economy.** It is encouraging to note that the Bangsamoro Development Plan (BDP) is the product of 2 years of consultations and has been supported by government, development partners and

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

stakeholders. The BDP focuses on ensuring that the dividends of peace will reach the communities as well as establish the foundation for business and investment and revenue generation.

- **Jobs are key.** Equally important is the need to ensure employment creation and income generating opportunities for the millions of poor in the Bangsamoro who long for a decent livelihood and a peaceful existence. The success of the transition to an autonomous Bangsamoro will depend to a considerable extent on the ability of the authorities to attract private sector investment in new or expanded enterprises necessary to absorb the bulk of workers, and thus help lift families out of extreme poverty. To address the “chicken and egg” issue of Peace and Development and accelerate the pace of development, it was suggested that PEZA-like zones where progressive leadership exists and the requisite resources are made available to enhance the possibilities of success, can be considered.
- **Peace and order is the critical challenge.** The restoration of peace, law and order will facilitate private investment in business activities on the scale needed to ensure robust and sustainable growth in the Bangsamoro region. The security of personnel and assets will need to be assured.
- **Physical infrastructure bottlenecks will be high on the development agenda.** Water, land, and air transport facilities in

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the Bangsamoro region need substantial improvement, with a more conscious effort to integrate them into a more seamless logistical network linking production to supplies and markets. This requires a multi-modal approach to transport systems. Power, telecommunications, and water supply are also inadequate, but whose provisions extend beyond geography.

- **Capacity building for the Bangsamoro is an urgent and immediate requirement.** Proper training is required for Bangsamoro leaders who will govern, Bangsamoro professionals who will run the civil service, and for the citizens of the region. It is estimated that over 600,000 adults in the Bangsamoro are illiterate and cannot be part of inclusive growth if they remain unemployable or unable to avail of productivity improvement programs due to lack of comprehension. Capacity building is part of the BDP. This lays the foundation for initiatives that the private sector can immediately offer - functional literacy, internships, and skills development among others.
- **We need more engagement between the Bangsamoro and the Philippine Business Community.** In terms of bringing more investment to Mindanao, the business community in Manila has to engage more with Bangsamoro leadership in the Bangsamoro as part of confidence-building.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

What are the major findings of the Peace Council's Cluster on Social Justice and Human Development?

The Cluster identified specific provisions of the BBL relevant to Social Justice and Human Development. They then further divided themselves into two sub-clusters that discussed contentious issues surrounding provisions with relevance to (1) Human Rights and Human Development and (2) Indigenous Peoples. The Cluster's mandate was to ensure that the imperatives to attaining peace, which are social justice and human development, are given their proper due in the Bangsamoro Basic Law in order to correct the injustices of the past which formed the root cause of the armed rebellion.

After a careful study of the BBL provisions, the Cluster concludes that the BBL does fulfil this mandate of Social Justice and Human Development. The Cluster notes that the BBL is replete with references to social justice that leads to the conclusion that Social Justice is the framework of the BBL. For example, Article XIII on Economy and Patrimony begins with Section 1 entitled Bangsamoro Economy and Social Justice: "The Bangsamoro Government's economic policies and programs shall be based on the principle of social justice." In Article IV covering General Principles and Policies, it is asserted that Social Justice shall be promoted in all phases of development and facets of life within the Bangsamoro. Likewise, the concepts of Human Security and Human Development encompassing human rights and freedoms are well covered by the BBL. The Cluster sees only the need for some refinement and fine-

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

tuning of certain provisions. Such refinements include the following:

- The inclusion of a definition of terms, such as “Non-Moro Indigenous Peoples” and “FusakaInged”, among others, to make the law more readable.
- The inclusion of (a) an additional article defining *social justice*, in accordance with the Philippine Constitution and (b) an additional section dedicated to the poorest of the poor with regards to attaining social justice so as to explicitly present the law as embodying the implementation of the spirit of social justice as mandated by the Constitution.
- The need for expansion of the reserved seats, especially for the youth, women and the Indigenous Peoples. The BBL has provided a venue for genuine representation in the Bangsamoro Parliament by reserving seats for sectors on the margins who would otherwise not have the opportunity to be heard.
- Improvements to education included recommendations for (a) the adoption of some form of recognition for international standards of global competitiveness within relevant provisions of the BBL, (b) the inclusion of Peace Education for the purpose of promoting a Culture of Peace and Diversity in the Bangsamoro territories and among all peoples in the region, (c) the insertion of a separate section on incorporating Bangsamoro history, culture, and identity as part of the effort towards integration in the curriculum both within the Bangsamoro and throughout the country in order to eliminate prejudice towards the Bangsamoro people.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- The need to view rehabilitation provisions holistically to encompass the victims of conflict in Mindanao, including non-MILF combatants and their families as well many others, particularly the poor. Rehabilitation should also be viewed not only in terms of compensation but as a means to heal the non-physical wounds of conflict.

There are special concerns raised with regard to the Indigenous Peoples. The Cluster invited tribal leaders representing Non-Moro Indigenous Peoples' communities in Muslim Mindanao affected by the BBL to join the Cluster deliberations on Indigenous Peoples rights and they are of one voice in wanting to ascertain that their rights under the Indigenous Peoples Rights Act (RA 8371) and other laws are reasserted, recognized, and protected under the BBL. The Cluster would like to support them in this regard. While the specifics on how the rights of Non-Moro Indigenous Peoples shall be protected in the Bangsamoro may be beyond the Council's ability to resolve, the Cluster is united in affirming that the voices of Non-Moro Indigenous Peoples who may be affected by the BBL must be heard in the policy-making process.

In sum, the Cluster endorses the BBL and recommends its passage, as an act of Social Justice and Reparation to the peoples of Muslim Mindanao to rectify all the injustices inflicted upon them in the past. It is the Cluster's hope that the Bangsamoro will serve as a model for the rest of the country in fulfilling the 1987 Philippine Constitution's mandate to secure Social Justice for all Filipinos.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

What is the Cluster's over-all framework in its analysis of the BBL provisions?

The Cluster emphasizes and concludes that the BBL provisions should be given proper due with a context on the historical injustices committed to both the Bangsamoro and Non-Moro Indigenous Peoples. Ensuring the improvement of the Bangsamoro and Non-Moro Indigenous Peoples' socio-economic conditions will result to giving more hope that people in the communities can focus on ways to develop their socio-economic means through non-violent resolutions. This is necessary to provide a social order to respond to the injustices of the past that created the root cause of the armed rebellion.

If social injustice is the root cause of the problem in Muslim Mindanao, then the antidote should be social justice and human development. The Cluster interprets social justice broadly to encompass distributive justice to ensure an equitable distribution of the fruits of the economy and restorative justice to restore the universal rights and freedoms to the Bangsamoro people.

The BBL, by giving the Bangsamoro people the right to self-determination and the wherewithal of self-governance, is in itself an instrument of social justice and human development. The BBL is an instrument of Social Justice and an act of reparation to the Bangsamoro People of Mindanao to rectify for all the injustices inflicted upon them in the past and it is a pathway to peace, with justice and development for the Bangsamoro.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

What are the major findings of the Peace Council's Cluster on Human Security (Peace and Order)?

The Cluster was formed to focus primarily on security issues in the BBL. The Cluster did not limit itself strictly to Article XI of the Bangsamoro Basic Law (BBL), which dealt primarily with Public Order and Safety. The Cluster also tackled issues with relevance to the overall peace process including current Congressional deliberations, and post-conflict proceedings. The issues discussed by the Cluster can be grouped into three (3) categories – (a) Trust as a main concern of the peace process, (b) issues with direct relevance to BBL provisions pertaining to Public Order and Safety (Article XI) as well as to the Normalization process, and (c) addressing the broader issues of peace.

First, the issue of trust. The Mamasapano incident of 25 January 2015 temporarily halted congressional deliberation on the BBL's substantive issues. The general perception of the MILF's culpability created a lack of trust against the MILF in particular, and autonomy in general. Unfortunately, regaining trust in the peace process – and this is applicable to both sides of the table – cannot be fully accomplished by the quick resolution of one incident, or at least any time while the peace agreement remains viable. By its nature, parties to a conflict come from a place of mistrust, but any conflict resolution comes from a place of hope. To conclude a peace agreement requires a suspension of this mistrust long enough to give both sides a chance to make peace work. The real work of

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

peace comes after the agreement, not before. Concluding peace agreements does not conclude the peace; peace agreements mark the beginning of peace. **Therefore, the best way to re-establish trust is to pursue the peace process and the BBL.**

Second, the issue of secession. Some sectors have raised the fear that the BBL contains no commitment or assurance that the MILF or the Bangsamoro government will not secede from the republic in the future. On the contrary, by engaging in a peace process, it will become difficult for the MILF to gain international recognition, a necessary requirement to gain full sovereignty, if they attempt to secede. Rather than facilitating secession, the participation of nation-states and other international actors and entities in the peace process make them witness to the fact that secession is outside the intent or scope of the BBL, and that the Constitution prevails in all matters. Moreover, by signing agreements with the government, the MILF has bound itself to the process. The reason the peace process could proceed in the first place is because the MILF had already given up their claim for secession. From its original call for an independent Islamic state, the MILF has indeed made a lot of compromises in negotiating for greater autonomy instead. **The best protection against secessionism is the passage of the BBL and its effective implementation to provide a national environment that allows Muslim Mindanao to develop as part of a diverse Philippines.**

Third, on the police and military. As regards public order and safety, the issue of the Bangsamoro Police or the creation of the Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Command of the AFP turning into a separate Bangsamoro army was raised. The Cluster sees the need to emphasize that the Bangsamoro Police is part of the national PNP and that the Bangsamoro Command is under the direct supervision of the AFP Chief of Staff. Questions were also raised on why the BBL requires the AFP to coordinate with the Bangsamoro government as stipulated in the BBL's provision. The Cluster recognizes that the AFP already coordinates with any local government unit, without impairing the capability of the AFP to pursue its duty and mission. Vesting primary responsibility for security to the Bangsamoro is enshrined in a principle the GPH and the MILF agreed to in the Framework Agreement on the Bangsamoro (FAB) and currently practiced by the AFP. Moreover, the Cluster believes that the best way to resolve questions about Bangsamoro security is to fill the gaps in the existing relationship between the AFP and the PNP.

Fourth, on Normalization and Decommissioning of MILF. There was concern expressed over the lack of a clear and specific timeframe for decommissioning. Members of the cluster explained that the phasing of decommissioning has been tied to milestones in the implementation of the peace agreement as the MILF learned from the lapses in the implementation of the MNLF's agreement. The MILF, therefore, will undertake gradual decommissioning depending on what aspect of the political deal has been delivered. Insisting on a fixed timetable for MILF surrender of their arms fails to recognize the threats to the MILF posed, not by the government, but by potential spoilers and other armed groups identified by International Alert in the Bangsamoro area. The Cluster

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

maintains that the decommissioning of the MILF's Bangsamoro Islamic Armed Forces (BIAF) would improve peace and security in Mindanao as this would have a “knock-on” effect on other armed groups. As far as the GPH-MILF phasing for the decommissioning of MILF forces is concerned, the passage of the BBL is key to jumpstarting the process of gradual phasing out of rebel arms and combatants.

What is the Cluster's framework on Transitional Justice?

The BBL currently refers to the creation of a Transitional Justice mechanism that addresses the “legitimate grievances of the Bangsamoro people, such as historical injustices, human rights violations, marginalization through unjust dispossession of their territorial and proprietary rights and customary land tenure.” The current Transitional Justice and Reconciliation Commission has already begun addressing some of these issues.

The creation of stronger Transitional Justice mechanisms may give an opportunity to ensure that full measure is given to address grievances beyond Mamasapano, and beyond land disputes, with impartiality and sensitivity. This mechanism may be within the BBL itself, i.e. to expand the TJRC, or else to create a separate body. In either case, to have a body that is given enough time to understand all the issues that include International Humanitarian Law, Penal Law, the Laws of War, and Terrorism.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Transitional Justice is conflict prevention. The Philippines must now make its own narrative – as complete as possible. Although likely to be imperfect, it is important that it is a shared narrative. Most of us who have been so far removed from this conflict that has affected generations of our fellow Filipinos, are as likely to repeat the failures of peace as our predecessors if we continue to be ignorant of them. The Philippines needs a shared history, and a meaningful transition may be a chance for our country to begin one.

The ultimate purpose of transitional justice is not only to move from conflict to peace without incident, to assign blame or to administer punishment. The purpose is to heal from it by never repeating the tragedy, horror, deprivation and destitution of conflict.

Now that the Report of the Peace Council on the Bangsamoro Basic Law has been presented to the policy-makers and to the public, what are the tasks ahead?

The statement of the five convenors, which accompanies the Report of the Peace Council, explains the context of the report and the remaining tasks ahead:

Indeed we saw our effort as only one of other citizen efforts, and those of government, some larger than our own, whose work has been more arduous, taking longer than our own.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

We submit our report as our contribution to the search for peace in Mindanao and in our country. We will communicate what we have learned, and make available the reading materials we reviewed.

We express in the report our support to the passage of the BBL, together with our recommendations on a few provisions. We hope that Congress and our people can overcome their prejudices. We cannot pursue peace on the basis of mutual fear and distrust. All of us must undertake an active search for justice, truth, respect, love and peace. We will exert all efforts in disseminating our findings, assuring everyone of the independence of the process.

We do so with trust and faith that other citizens like us will decide that the BBL places peace within our grasp – peace for Mindanao and peace for all Filipinos.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The Peace Council Report on the Bangsamoro Basic Law

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Executive Summary

On 27 March 2015, exactly a year after the Comprehensive Agreement on the Bangsamoro (CAB) was signed by the Moro Islamic Liberation Front (MILF) and the Philippine Government, President Benigno S. Aquino III invited five citizens known for their wisdom and integrity to take a close look at the proposed Bangsamoro Basic Law (BBL) now pending in Congress. Manila Archbishop Luis Antonio Cardinal Tagle, former Chief Justice Hilario Davide, Jr, businessman Jaime Augusto Zobel de Ayala, former Philippine Ambassador to the Holy See and Malta Howard Dee, and founder of Teach Peace, Build Peace Movement Bai Rohaniza Sumndad-Usman accepted the invitation and gathered 27 other responsible and respected leaders from all sectors of society. There were Christians, Muslims, Indigenous Peoples, religious leaders for various faiths, civil society representatives, businessmen, academics, researchers, and youth. Resource persons were also invited.

Through cluster meetings and a National Peace Summit, they independently looked into the provisions of the BBL and offered their collective views and recommendations, each according to his/her knowledge, experience, and expertise. According to the Conveners, the summit served as “an avenue for dialogue between and among independent-minded citizens who believe in the importance of understanding the BBL and to discuss its implications for peace and

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

development in our country in a fair and reasonable manner.” This report summarizes the views and recommendations of the Council, which reviewed the BBL along four themes: (1) Constitutionality, Form and Powers of Government; (2) Economy and Patrimony, (3) Social Justice and Human Development, and (4) Peace and Order and Human Security.

A total of 136 participants joined the discussions in one or more of the clusters reflecting these themes and separately discussed the BBL from 8-17 April before convening for the National Peace Summit on 18 April 2015.

On the BBL’s Constitutionality

The Cluster on Constitutionality, Form and Powers of Government did a very thorough review of the BBL and sifted through the positions and arguments of those who are for and against the proposed law. In doing so, they used a lens informed of the following ideas: (1) passing a law that creates an autonomous region is in fact required by the Constitution; (2) passing a law for the autonomous region is aimed at correcting past injustices and at addressing social, political and economic problems the region is facing at present, which should not be postponed; (3) autonomy, as contained in the Constitution, is unique and unlike any other local government unit, and should therefore be seen in such light; (4) the BBL is unlike any other form of law as it is an Organic Act and contains the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

agreements reached from years of negotiations; and (5) a liberal interpretation of the Constitution is needed if its requirement for the establishment of a genuine regional autonomy is to be realized.

It is important to emphasize that the creation of a meaningful autonomy in Muslim Mindanao is both a social justice and a peace and development issue. Fourteen of those who helped create the 1987 Philippine Constitution, three of whom actively participated in the Summit, see the proposed BBL as an attempt at delivering on the Constitutional promise of “closing the gap between law and justice”. They believe that it is “necessary to fulfill the vision and spirit that guided the constitutional provisions on autonomous regions since RA 6734 and RA 9054, (and the past and present Organic Acts of the Autonomous Region of Muslim Mindanao) have clearly not gone far enough to give life to the concept of autonomy for Muslim Mindanao as envisioned by the Constitution.”

Such is the Cluster’s emphasis on social justice that they recommended the BBL’s preamble explicitly state the principle of social justice, which they recommended carry the definition as enshrined in the Constitution.

The BBL is also a product of a peace agreement, forged after decades of peace negotiations, borne out of the country’s exhaustion with war. Understanding this nature of the BBL will place greater significance on the legislative process and put it in the proper perspective. Legislation must be seen, therefore, as a continuation and finalization of the peace agreement. The grant of regional autonomy is an alternative to

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

independence or secession. But more than that, the establishment of the Bangsamoro Autonomous Region through the BBL must be seen as an alternative to war. Legislation, therefore, in this context, should be seen as a peace-building exercise. Legislators are not only policy formulators, they become peace-builders.

Autonomy and self-governance is not equivalent to independence or statehood. It is an acknowledgement of human diversity and recognition that, despite decades of trying, the different cultures had not been served in any effective way by the national government. To allow this diversity to thrive, the Constitution contemplates that, within the single democratic and republican Philippine State, Congress would create Autonomous Regions that could exercise all the traditional powers of government: police power, taxation and eminent domain, in the same way as all local government units, but would enjoy less interference from the national government. A law creating an Autonomous Region for Muslim Mindanao, therefore, cannot be expected to reiterate the same powers or structures as our traditional political subdivisions. To expect an Autonomous Region to behave like a province or city defeats the purpose of autonomy. Similarly, to treat the Autonomous Regions like other local government units defeats the purpose of autonomy.

The BBL does not guide the interpretation of the Constitution; the Constitution guides the interpretation of the BBL. Much of the confusion and concern about the Constitutionality of the BBL can be resolved by applying one of the most basic rules of interpretation in Constitutional

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Law: that as the fundamental, paramount, and supreme law of the nation, the Constitution is deemed written in every statute and contract. As a rule of statutory construction, if there are provisions of a statute irreconcilable with the Constitution, the Constitution prevails. When reading the proposed Bangsamoro Basic Law, it is therefore presumed that all Constitutional powers of government and the Constitutional Commissions and bodies remain intact, regardless of whether the law explicitly provides for it or not. There is no creation of a separate kind of citizen, and no creation, virtual or otherwise, of a political territory that is greater than the national government that creates it, or beyond the reach of the Constitution that allows it.

Bearing in mind the foregoing premises, the Cluster analysed the major contentious issues on the BBL and came up with the major findings presented below.

- A. The BBL does not make the Bangsamoro Government a state. The provisions on “people,” “territory,” and “self-determination” do not imply the creation of a separate state, but are consistent with the constitutionally mandated creation of autonomous regions.** Though the Bangsamoro will have a territory, people and its own government, much like any other local government unit in the Philippines, it remains part of the republic as the BBL clearly declares. An area with its own defined territory, jurisdiction, or rules does not make that territory independent from its parent state. Both the Constitution and the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Local Government Code refers to the areas of local government units as “territories”. The inclusion of a definition of ‘Bangsamoro People’ in the BBL is only an affirmation of identity, not a definition of citizenship. The right of self-determination is a right of all peoples and is not equivalent to the right to statehood. Self-determination is therefore generally understood to mean what our own Supreme Court has described as “internal” self-determination.

Nonetheless, the Cluster was of the view that, once territorial boundaries are established in the plebiscite for the ratification of the BBL, the core Bangsamoro territories should not be allowed to increase indefinitely by the periodic vote of 10% of registered voters in the outer territories. This is because the creation of an autonomous region, including the definition of its territory, is the sole function of Congress. Therefore, such changes of territory that establish the limits of the region in the future should go through Congress. **For purposes of clarity, it is therefore recommended that references to the opt-in provisions in Article III, Sec. 3, and in Article XV, Sec. 4 be deleted. Otherwise, the definition of the “Bangsamoro territory”, along with “Bangsamoro People” and “Self-determination”, in the BBL may stand without need of neither amendment nor clarification.**

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- B. The Bangsamoro Government, as constituted in the BBL, is compliant with the requirements of the Constitution.** The government, with an executive department and legislative assembly combined in the Parliament, have officers that are elective and representative of the constituent political units. Our Constitution permits a parliamentary form of government in local government units. The prescribed unitary and Presidential form of government established in the Constitution refers to the national government. When it comes to local government units, however, the Constitution “only requires that the government of an autonomous region ‘consist of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units’”. Moreover, passing the BBL does not constitute establishment of religion, much less enforce one upon Filipino citizens. The creation of a “Muslim” Mindanao or the use of a “Wali” as a titular head of the Bangsamoro does not violate the separation of Church and State.

The Cluster, nonetheless, recommended that the phrase “ministerial form of government” in the BBL be dropped in favour of “parliamentary” form for purposes of consistency and clarity. The Cluster also suggested refinements in the BBL provision that allows new parliamentary elections, upon a two-thirds (2/3) vote of no confidence of all members of Parliament against the government of the day as this will run counter to the constitutionally mandated synchronization of national and local

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

elections. To address this, it is recommended that the vote of no confidence must affect the government of the day, not the parliament, so that parliamentary elections in the Bangsamoro can be synchronized with other national and local elections.

- C. The inter-governmental relation between the National Government and the Bangsamoro Government is consistent with the allocation of powers mandated by the Constitution. The defined relationship between the National Government and the Bangsamoro Government embodies the essence of genuine autonomy, based on principles of subsidiarity and solidarity. The grant of exclusive powers to the Bangsamoro Government is not tantamount to a superior Bangsamoro Government or a weakened Central Government. In order to remove such misunderstanding, the definition of the exclusive powers should be refined such that there is emphasis that these are devolved powers and that the President exercises general supervision over the Bangsamoro Government in its exercise of the exclusive or devolved powers. Devolution is inspired by the principle of subsidiarity, which is coupled with the principle of solidarity as an inherent right and duty of the State. The principle of solidarity is already reflected in the BBL section on Devolution and Subsidiarity requiring all governmental decisions to adhere to “considerations of good governance and the general welfare”. It is therefore recommended, for greater emphasis, that the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Article VI, Sec. 6 on Devolution and Subsidiarity be amended to read “Principles of Devolution and Subsidiarity, and of Solidarity” and that all BBL provisions that refer to the principle of subsidiarity should concomitantly include the principle of solidarity. Moreover, to avoid confusion, it is also recommended that the phrase “asymmetric relationship” be defined in the BBL in order to clarify that it merely “refers to the relationship between the central government and the Bangsamoro government as an autonomous region, where, as provided under Section 15, Article X of the 1987 Constitution, the autonomous regions are granted more powers and less intervention from the national government than territorial and political subdivisions.”

- D. The Supreme Court and the Constitutional Bodies continue to maintain the powers that are given them under the Constitution. There is neither substitution nor diminution of powers intended or effected by the creation of the Bangsamoro human rights, auditing, civil service, and electoral offices.** The BBL provides for the establishment of Shari’ah Circuit Courts, Shari’ah District Courts, and a Shari’ah High Court, respectively. Under the Constitution, the Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts and it can authorize the autonomous region to possess such legislative power. Furthermore, it should be clarified that Judicial power remains

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

with the Supreme Court while the BBL envisions the creation of special lower courts under the Supreme Court's control and supervision. The BBL provision that states that the decisions of the Shari'ah High Court shall be final and executory invites controversy. **In order to avert any confusion, the provision may be amended to include the clause, "subject to the review powers of the Supreme Court."** In any case, under the Constitution, all government actions can be brought to the Supreme Court for settlement of actual controversies or when there is grave abuse of discretion.

The Bangsamoro special bodies (Auditing Body, Civil Service Office, Human Rights Commission), on the other hand, were created with the goal of supplementing, not supplanting, the work of their national counterparts. As such, sections which provide for the creation of these Bangsamoro bodies include the clause, "without prejudice to the powers, authorities, and duties" of the National Constitutional bodies (for the civil service and the auditing bodies), and the clause, "shall have a coordinative and complementary relationship" (for the Human Rights Commission). The Bangsamoro Electoral Office is distinct, for there is a categorical provision saying that it shall be a part of the Commission on Elections. On the issue of the Bangsamoro Government having "primary disciplinary authority over its own officials and employees" (Article V, Section 2(8) of the BBL), **it is proposed that the phrase "without prejudice to the powers of**

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the CSC and the Ombudsman” be inserted to address the Ombudsman’s concern that said section diminishes the Ombudsman’s mandate over public officials and employees.

- E. The plebiscite requirement in the BBL adheres to the provision of the Constitution on the process for creation of the autonomous region. Sec. 3 (e) of the BBL’s Art. XV provides for the opt-in of contiguous areas where there is a resolution of the local government unit or a petition of at least 10% of the registered voters in the geographical area for their inclusion, and majority of the registered voters vote for their area’s inclusion in a plebiscite called for that purpose. This must be distinguished from Sec. 4 of the same article, which was discussed earlier in the portion on Territory. Sec. 3 (e) refers to the inclusion of contiguous areas in the plebiscite for the approval of the BBL, while Sec. 4 applies to the addition of contiguous areas after the ratification of the BBL. Sec. 3 can be maintained as it is still consistent with the single plebiscite process.

In conclusion, the Cluster declared that the BBL complies with the Constitution’s mandate for the creation of autonomous regions, “within the framework of (the) Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.” While imperfect, it is a significant document that should serve as catalyst for building national consensus towards the realization of the long term aspiration, expressed

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

by the country three decades ago, for justice, solidarity and peace, for Mindanao, and for the entire Philippines.

On Provisions Pertaining to Economy

The Cluster, upon review of Article XIII of the BBL pertaining to Economy and Patrimony, found no major contentious issues. The group also looked into the salient points of the Bangsamoro Development Plan and read relevant articles and agreed that the Bangsamoro is already making great strides in establishing a favorable socio-economic framework for investment.

Most of the potential issues the group identified merely required clarification and could be addressed through the provision of more detailed information or explanation. These potential issues included (a) management and control of natural resources, including the exploration, development and utilization of fossil fuels, (b) labor and the legal framework governing their rights, wages and other social benefits, (c) land registration, management, distribution and classification, for which the Cluster saw an opportunity for possible streamlining if handled by just one office in the Bangsamoro, (d) the legal regime that will govern the imposition of customs duties and tariffs within the Bangsamoro, (e) the extent of infrastructure needs of the Bangsamoro and range of opportunities for investors, (f) how the Bangsamoro will regulate in coordination with the Central Government power generation that is

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

connected to the national grid, (g) additional powers for the Bangsamoro to regulate transportation and communication, and (h) the instances when the Chief Minister of the Bangsamoro can take over direct operation of businesses, (i) the tax regime that will govern the Bangsamoro in the future, and (j) the regulation, management and protection of resources found in inland waters.

The Cluster also felt that two issues needed to be clarified to the public – that of the creation of the Bangsamoro’s own Commission on Audit (COA) and the controversial block grant. Through a close reading of the proposed BBL, the Cluster saw that the Bangsamoro auditing body will in fact be under the national COA. The block grant, on the other hand, has been subject to speculation as pork barrel funds to be provided to the Bangsamoro. The Cluster’s study, however, reveals that the additional cost to the national government will only amount to about P10.5 billion as the rest of the block grant is already part of the existing annual appropriations to the ARMM. The Cluster was of the opinion that the block grant was warranted to help the Bangsamoro catch up with the rest of the country as it has been lagging behind as far as human development is concerned.

Perhaps the only contentious issue the group identified had to do primarily with the management of peace and order in the Bangsamoro region. This is an important economic issue because the level of business activity in the Bangsamoro is linked to the security in the area. In the case of Bangsamoro, security and maintenance of peace and order rests with the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Bangsamoro Police, which will remain part of the national police. The Chief Minister, however, will head the Bangsamoro Police Board. Nonetheless, it was clarified to the Cluster that in case of conflict between National PNP Chief and the Chief Minister, the decision of the PNP Chief will prevail. Moreover, the Bangsamoro Police Board will still be under the NAPOLCOM and the existing police units in the ARMM will make up the force during transition and while a professional Bangsamoro police is organized.

On Social Justice and Human Development

The Cluster identified specific provisions of the BBL relevant to Social Justice and Human Development. They then further divided themselves into two sub-clusters that discussed contentious issues surrounding provisions with relevance to (1) Human Rights and Human Development and (2) Indigenous Peoples. The Cluster's mandate was to ensure that the imperatives to attaining peace, which are social justice and human development, are given their proper due in the Bangsamoro Basic Law in order to correct the injustices of the past which formed the root cause of the armed rebellion.

After a careful study of the BBL Provisions in its totality, the Cluster concluded that the Draft BBL does fulfil this mandate of Social Justice and Human Development. The Cluster noted that the BBL is replete with references to social justice that leads to the conclusion that

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Social Justice is the framework of the BBL. For example, Article XIII on Economy and Patrimony begins with Section 1 entitled Bangsamoro Economy and Social Justice: “The Bangsamoro Government’s economic policies and programs shall be based on the principle of social justice.” In Article IV covering General Principles and Policies, it is asserted that Social Justice shall be promoted in all phases of development and facets of life within the Bangsamoro. Likewise, the concepts of Human Security and Human Development encompassing human rights and freedoms are well covered by the BBL. The Cluster, therefore, saw only the need for some refinement and fine-tuning of certain provisions. Such refinements include the following:

1. The inclusion of a definition of terms, such as “Non-Moro Indigenous Peoples” and “Fusaka Inged”, among others, to make the law more readable.
2. The inclusion of (a) an additional article defining *social justice*, in accordance with the Philippine Constitution and (b) an additional section dedicated to the poorest of the poor with regards to attaining social justice so as to explicitly present the law as embodying the implementation of the spirit of social justice as mandated by the Constitution.
3. The need for expansion of the reserved seats, especially for the youth, women and the Indigenous Peoples. The BBL has provided a venue for genuine representation in the Bangsamoro Parliament by

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

reserving seats for sectors on the margins who would otherwise not have the opportunity to be heard.

4. Improvements to education included recommendations for (a) the adoption of some form of recognition for international standards of global competitiveness within relevant provisions of the BBL, (b) the inclusion of Peace Education for the purpose of promoting a Culture of Peace and Diversity in the Bangsamoro territories and among all peoples in the region, (c) the insertion of a separate section on incorporating Bangsamoro history, culture, and identity as part of the effort towards integration in the curriculum both within the Bangsamoro and throughout the country in order to eliminate prejudice towards the Bangsamoro people.
5. The need to view rehabilitation provisions holistically to encompass the victims of conflict in Mindanao, including non-MILF combatants and their families as well many others, particularly the poor. Rehabilitation should also be viewed not only in terms of compensation but as a means to heal the non-physical wounds of conflict.

There are special concerns raised with regard to the Indigenous Peoples, the Katutubo of Muslim Mindanao. The Cluster invited tribal leaders representing Non-Moro Indigenous Peoples' communities in Muslim Mindanao affected by the BBL to join the Cluster deliberations on

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Indigenous Peoples rights and they are of one voice in wanting to ascertain that their rights under the Indigenous Peoples Rights Act (RA 8371) and other laws are reasserted, recognized, and protected under the BBL. The Cluster would like to support them in this regard. While the specifics on how the rights of Non-Moro Indigenous Peoples shall be protected in the Bangsamoro may be beyond the Council's ability to resolve, the Cluster is united in affirming that the voices of Non-Moro Indigenous Peoples who may be affected by the BBL must be heard in the policy-making process.

The Cluster on Social Justice and Human Development, thus, endorsed the BBL and recommended its passage, as an act of Social Justice and Reparation to the peoples of Muslim Mindanao to rectify all the injustices inflicted upon them in the past. It is the Cluster's hope that the Bangsamoro will serve as a model for the rest of the country in fulfilling the 1987 Philippine Constitution's mandate to secure Social Justice for all Filipinos.

On Public Order and Safety, and Human Security

The Cluster recognized that the incident in Mamasapano, Maguindanao dealt a huge blow to the peace process. As a result, the public's view of the BBL was unfortunately colored by a lack of trust towards the MILF, both as the government's negotiation partner and as future leaders of the Bangsamoro. Worse, it resurrected deep-seated mistrust of the Moros in

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

general. At the Summit, the delegates saw the need for both the public and our lawmakers to transform the incident into a challenge – that the best tribute to all those who died in Mamasapano would be to bring lasting peace in Mindanao by allowing the peace process to move forward and for human development and social justice to flourish.

International Alert's Bangsamoro Conflict Monitoring System (BCMS) reminded the group that, as in all conflict areas in transition after a peace agreement is signed, that things are more likely to get worse before they get better. The study presented data showing the steady rise of violent incidents since 2011 involving those known as “peace spoilers”, particularly the Bangsamoro Islamic Freedom Fighters (BIFF). However, the study also revealed that while incidents involving the Moro Islamic Liberation Front (MILF) and the Philippine Armed Forces were decreasing, fighting between the MILF and the BIFF increased in areas surrounding Mamasapano, disproving claims that the MILF has been providing safe haven to the BIFF. The study brings home this significant point: that the decommissioning of the MILF's Bangsamoro Islamic Armed Forces (BIAF) would improve peace and security in Mindanao as this would have a “knock-on” effect on other armed groups. As far as the GPH-MILF phasing for the decommissioning of MILF forces is concerned, the passage of the BBL is key to jumpstarting the process of gradual phasing out of rebel arms and combatants.

Among the issues discussed by the Cluster with general significance to the Peace Process concerned the general public's (a) need for assurance

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

that the Bangsamoro would not secede as an independent state in the future, (b) need for protection from extremism, (c) bigotry and bias against Muslims, and (d) the need to acknowledge the efforts of the MNLF. The Cluster felt that the best protection against secession and extremism is the Constitution, and the best assurance against secession or extremism is not in the text of the BBL but in its implementation and by giving genuine autonomy a chance. Allowing the peace process to move with the passage of the BBL will also serve to strengthen the position of the moderates among the rebels, and thus usher in hope that it will fend off extremist influence. But successfully implementing the BBL will require that public come to terms with its biases. This can be addressed by incorporating peace education and Muslim and IP history in all levels. Finally, our lawmakers will need to acknowledge even at least in its explanatory note that the BBL benefited from the gains and experience of the MNLF and their own peace agreement and process.

With regards public order and safety, the issue of the Bangsamoro Police or the creation of the Bangsamoro Command of the AFP turning into a separate Bangsamoro army was raised. The Cluster felt that it was important to emphasize that the Bangsamoro Police is part of the national PNP and that the Bangsamoro Command is under the direct supervision of the AFP Chief of Staff. Questions were also raised on why the BBL requires the AFP to coordinate with the Bangsamoro government as stipulated in the BBL's provision. The Cluster recognized that the AFP already coordinates with any local government unit, without impairing the capability off the AFP to pursue its duty and mission. Vesting primary

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

responsibility for security to the Bangsamoro is enshrined in a principle the GPH and the MILF agreed to in the Framework Agreement on the Bangsamoro (FAB) and currently practiced by the AFP. Moreover, the Cluster believes that we **must** learn to trust the Bangsamoro to provide for their own security even as we strengthen mechanisms for checks and balances. The best way to resolve questions about Bangsamoro security is to fill the gaps in the existing relationship between the AFP and the PNP.

Concerns over the lack of a clear and specific timeframe for decommissioning were raised. Members of the cluster, nonetheless, acknowledged that the phasing of decommissioning has been tied to milestones in the implementation of the peace agreement. Therefore, the MILF will undertake gradual decommissioning depending on what aspect of the political deal has been delivered.

Retiring a huge chunk of arms and combatants in Mindanao, therefore, is tied to the fate of the BBL. The key message here is if we want to avoid another Mamasapano incident, we need to see to it that the BBL is passed. But this begs the question of accountability for the Mamasapano incident. The Cluster was of the opinion that the incident, other historical injustices, and peace and security generally can be dealt with by incorporating within or supplemental to the BBL stronger mechanisms for transitional justice.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The Peace Council

On March 27, 2015, during the celebration of the anniversary of the Comprehensive Agreement on the Bangsamoro (CAB), President Benigno S. Aquino announced that he had requested five respected citizen leaders to act as convenors of an independent Peace Council: Manila Archbishop Luis Antonio Cardinal Tagle, former Chief Justice Hilario Davide, Jr, businessman Jaime Augusto Zobel de Ayala, former Philippine Ambassador to the Holy See and Malta Howard Dee, and founder of Teach Peace, Build Peace Movement, Bai Rohaniza Sumndad-Usman.

In his speech, the President lamented that the Mamasapano incident created many doubts in the minds of Filipinos, and sidetracked the objective evaluation of the proposed Bangsamoro Basic Law (BBL). In this context, the Peace Council was envisioned to independently scrutinize the proposed law in a way that tempered the prevailing strong emotions, after which the report could be made public to assist national discussions on the BBL.

In response to the President's invitation to gather other responsible leaders from various sectors to spearhead a National Peace Summit to deliberate on and discuss the Bangsamoro Basic Law (BBL), the original five (5) convenors agreed to accept the challenge to look into the provisions with collective views and recommendations, and to educate themselves and their constituencies in the process. The five convenors

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

also agreed to expand the Peace Council's composition to include other co-convenors who, like them, are pro-peace and pro-dialogue.

In a statement released to the public, the convenors explained their role:

"We would like to emphasize that we are not a pressure group or a political movement; but rather, we are a group that would like to provide an avenue for dialogue between independent-minded citizens who believe in the importance of understanding the BBL and to discuss its implications for peace and development in our country at a fair and reasonable manner. We have no intentions to go beyond our self-imposed task of helping ourselves and our fellow citizens understand the importance of the peace issues at hand."

On April 7, 2015, the five convenors had their first meeting with the expanded Peace Council, where 27 identified co-convenors joined the five original convenors. During the meeting, Mr. Zobel de Ayala explained the role of the Peace Council and presented its key objectives as follows:

- Assert citizens' support for peace and development
- Affirm the validity of pursuing a law to govern with meaning and authority the autonomous Bangsamoro region
- Clarify contentious issues
- Ascertain the worthiness of BBL as the needed implementing legislation of the Comprehensive Agreement on the Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The group decided to divide themselves into four clusters, namely: (1) Constitutionality and Forms and Powers of Government (with Chief Justice Davide as chair); (2) Economy and Patrimony (with Mr. Zobel de Ayala as chair); (3) Social Justice and Human Development (with Ambassador Dee and Ms. Sumndad-Usman as co-chairs); and (4) Human Security (Peace and Order)(with Retired General Alexander Aguirre and former Secretary Edilberto de Jesus as co-chairs).

In his closing statement, Ambassador Howard Dee reminded the members of the Peace Council of the significance of the task ahead:

“Our overarching goal is peace with justice and development in Muslim Mindanao: a political peace settlement that addresses the injustices inflicted on the Bangsamoro religious, cultural and political identity as a people, as after all, they had their political identity before there was a Philippine nation; the human development of the Bangsamoro people by restoring their human rights and freedom to reverse their economic and social marginalization which has resulted in their human poverty level that is about twice the national average; a process of cultural and spiritual healing to overcome the deep-seated prejudices that continue to divide our people.”

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

In the two weeks that followed, the four clusters then proceeded to work on their assigned issues and conducted a series of meetings. Each cluster adopted its own processes and invited other participants and resource persons to the discussion sessions to further enhance the collective knowledge, expertise, experience, and wisdom of the groups.

On April 18, 2015, the Peace Council convened in plenary, and the four clusters took turns in presenting the results of the cluster discussions. The convenors were joined by those who had attended the various meetings of the four clusters.

This report contains the consolidated output of the Peace Council's four clusters, incorporating the discussions and recommendations during the April 18th plenary meeting.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Report of Cluster on Constitutionality, Form and Powers of Government

Introduction

The proposed Bangsamoro Basic Law (BBL), which is envisioned to fulfill one of the most significant mandates of the 1987 Constitution, is being questioned, and threatened with an abrupt end, with arguments that it contravenes the Constitution. This Constitutional Cluster was therefore created to analyze the varied positions on the constitutional issues raised. The Cluster members conducted a review of the numerous position papers, studies, and statements presented and circulated, both by those who are opposed to the BBL and those who are defending the BBL. Sifting through the different positions, the Cluster then identified key contentious issues that needed to be examined and addressed. This report contains a summary of the discussions conducted, and presents the Cluster's position, on these key contentious issues.

I. Framework

The Cluster's analysis of the BBL is premised on five interrelated propositions that serve as the over-arching framework for the Cluster's task.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- First, the passage of a law that creates an autonomous region is a constitutional mandate.
- Second, the passage of an organic law for the autonomous region is compelled by the imperative of correcting the injustices of the past, the urgency of the socio-economic-political context at present, and the uncertainty of having a similar opportunity in the future.
- Third, autonomy, especially in the context of the Constitution's mandate for the creation of autonomous regions is, in itself, a peculiarity, and the region that is given autonomy must be recognized and respected for its uniqueness.
- Fourth, the BBL must be understood as an extraordinarily special law, not only because of its nature as an organic act, but also, and more importantly, as an embodiment of a peace agreement, the product of prolonged negotiations.
- Fifth, the Constitution must be interpreted liberally, so as to give life to its provisions, and allow the fulfilment of the decades-old mandate for genuine regional autonomy.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

A. Constitutional mandate

The statement of the fourteen surviving members of the 1986 Constitutional Commission eloquently explains the significance of the BBL, thus:

The importance of the Bangsamoro Autonomous Region to the future of our country is unprecedented both as an unfulfilled promise and as a model of equitable autonomy.

We fully support the creation of the Bangsamoro Autonomous Region.

We believe that a new organic law is necessary to fulfill the vision and spirit that guided the constitutional provisions on autonomous regions since RA 6734 and RA 9054 have clearly not gone far enough to give life to the concept of autonomy for Muslim Mindanao as envisioned by the Constitution.¹

Unlike ordinary legislation, the passage of the BBL is not merely part of the regular exercise of the State's legislative powers. It is the performance of a sacred constitutional duty. Viewed differently, as the eminent constitutionalist Fr. Joaquin Bernas, S.J., would put it, the

¹ Framers of the 1987 Constitution Support Bangsamoro, January 9, 2015.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

establishment of the autonomous regions is not a question of privilege, but a question of right, for the regions that were guaranteed autonomy.²

The fourteen framers' unanimous sentiment aptly characterized the realization of the constitutional promise as "closing the gap between law and justice". In the public debates, various stakeholders must transcend the roles of proponents and opponents, and engage in a collective exercise of dialogue and consensus-building. Indeed, as the framers put it, the fulfilment of the constitutional mandate must be "the shared vision of a nation."

B. Rationale, Urgency

The fourteen framers have outlined the fundamental reasons for the establishment of the autonomous region:

The core principle of the 1987 Constitution in mandating a special status for the autonomous regions is the human development of the people of Muslim Mindanao and the Cordilleras. Hence, the public conversation should not be about semantics but about people – their needs, their aspirations, their choices - and about empowering them with the environment and institutional framework for social justice.

²*Bernas*, The 1987 Constitution of the Republic of the Philippines, A Commentary, 1139, (2009).

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

X X X

X X X

X X X

Human development is a noble end in itself. But the larger context of the CAB and the proposed BBL is our failure to effectively address the longest running insurgency and the development of our peoples, especially those of Muslim Mindanao.

X X X

X X X

X X X

The full flowering of Bangsamoro is assured if their leaders from a long line of heroic resistance to colonization can believe that Bangsamoro, with meaningful self-determination within the framework of the Republic, has a future and they can help create that future.

It is important to emphasize that the creation of a meaningful autonomy in Muslim Mindanao is a social justice issue, as well as a peace and development (i.e., human security) issue.

As the framers pointed out, the negotiations for a Bangsamoro peace agreement have dragged on for 17 years. The result is an autonomous law that broadens the original one and more fully complies with our government's Constitutional promise and duty. With the Aquino government's commitment and the trust that it has generated among the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Bangsamoro people, the current context provides an auspicious timing for the creation of the Bangsamoro Autonomous Region. And with the fast approaching elections, and the upcoming transition in government, further delay in the completion of the process could effectively derail the peace agreement.

C. Autonomy

Autonomy and self-governance are not equivalent to independence or statehood. It is a statement of national unity achieved not just by acknowledging human diversity, but allowing diversity to thrive.

The Autonomous Regions were created as special local governments that were distinct from the territorial and political subdivisions existing prior to the 1987 Constitution. The specific provisions on the Autonomous Regions are not just token statements about the internally diverse histories and cultures of the Philippines. They are a recognition that, despite decades of trying, these different cultures had not been served in any effective way by the national government.

By assuming that all Philippine culture could adapt to national policies in the same way, the national government was incapable of creating laws and policies that were as relevant to Muslim Mindanao and the Cordilleras as the rest of the dominant national (Christian) majority.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Unable then to progress under an “assimilative” legislative regime, Muslim Mindanao and the Cordilleras had fallen behind. The unrest that plagued those regions was not the cause of their separate progress, but the result of it. The creation of the autonomous regions is “an indictment against the *status quo* of a unitary system that, [to my mind] has ineluctably tied the hands of progress in our country.”³

The Constitution therefore contemplates that within the single democratic and republican Philippine State, Congress would create Autonomous Regions that could exercise all traditional powers of government: police power, taxation and eminent domain, *in the same way as all local government units*, but would enjoy less interference from the national government. This flexibility and freedom given to Autonomous Regions is the only way they could successfully chart their own unique path.

Parenthetically, the creation of such a “*sui generis*” autonomous region in Muslim Mindanao can be considered as a pilot case and model for the future development of the rest of the country, including revisiting the effectiveness of the unitary system.

A law creating an Autonomous Region for Muslim Mindanao cannot be expected to reiterate the same powers or structures as our traditional political subdivisions. To expect an Autonomous Region to behave like a

³ Statement of Commissioner Nollado, cited in *Disomangcop v. Datumanong*, G.R. No. 149848. November 25, 2004.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

province or city defeats the purpose of autonomy. Similarly, to treat the Autonomous Regions like other local government units defeats the purpose of autonomy. The existence of diverse regions means that assimilation now goes both ways: the majority and minority adjust to each other. The BBL appears to correct the failings of the previous organic laws to provide more meaningful autonomy to the region.

An organic law that creates a meaningful autonomy is without precedence and makes the endeavor understandably daunting. But unity in diversity is a promise all Filipinos made to ourselves when we ratified the 1987 Constitution and it's about time we keep it.

D. Peace Agreement

The BBL must be understood in its proper context. It is not an ordinary legislative proposal that comes into being merely with the sponsorship of a legislator or a group of legislators. It is likewise not comparable to a number of legislative proposals that came out of a process of drafting by stakeholders, and, eventually, picked up by champions among the legislators. The BBL is a product of a peace agreement, forged after decades-old peace negotiations, borne out of the country's exhaustion with war. The negotiations were done with the participation of international facilitators and observers. The drafting of the BBL underwent an elaborate process, even necessitating the creation of a composite Bangsamoro Transition Commission.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

This does not mean, however, that the Congress, as the repository of legislative powers, is deprived of the exercise of its constitutional prerogative. On the contrary, understanding the nature of the BBL will place greater significance on the legislative process and put it in the proper perspective. The legislative process must be seen as an indispensable and final step to complete and implement the agreement. Legislation must be seen, therefore, as a continuation and finalization of the peace agreement. Legislators are not only policy formulators, they become peace-builders.

The grant of regional autonomy had been presented, from the deliberations of the Constitutional Commission, to the prolonged peace negotiations, and until the ongoing debates on the BBL, as an alternative to independence or secession. But more than an alternative to independence or secession, the establishment of the Bangsamoro Autonomous Region through the BBL must be seen as an alternative to war. Again, this is not to say that the threat of war is a Damocles sword that hangs above the Legislative's head. This is just to emphasize that legislation, in this context, should be seen as a peace-building exercise.

When asked by Constitutional Commissioner Ricardo Romulo if the choice of the Commission was either to accept these provisions and have peace or reject them and have war, the late Constitutional Commissioner Blas Ople had a very candid response:

It is not the Committee but it is history that presents this choice to our people. I do not think it can be denied that more

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

than 100,000 lives have already been lost. There would have been many more thousands of lives lost, if there was no ceasefire in 1976 and 1977. That Agreement, of course, has suspended hostilities for a time.⁴

Almost three decades and several thousand more lost lives after such conversation, Ople's words still apply, and with greater resonance, today. History still presents the same dilemma, not just to the Congress, but to our people.

E. Giving Life to the Constitution

In interpreting the BBL, any doubt must be construed liberally, and not restrictively, so as to give life to the constitutional mandate. This includes the creation of autonomous regions, self-determination, equal protection, social justice and human rights, all under a regime of peace. If there is a possibility for both an interpretation that is constitutional and an interpretation making a law unconstitutional, the more liberal interpretation that renders the law constitutional in favor of peace should be adopted. The BBL does not guide the interpretation of the Constitution; the Constitution guides the interpretation of the BBL.

Much of the confusion and concern about the Constitutionality of the BBL can be resolved by applying one of the most basic rules of interpretation in Constitutional Law: that as the fundamental, paramount, and supreme law

⁴*Bernas*, The Intent of the 1986 Constitution Writers, 727 (1995).

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

of the nation, the Constitution is deemed written in every statute and contract.⁵ As a rule of statutory construction, if there are provisions of a statute irreconcilable with the Constitution, the Constitution prevails.

An organic act has only ever been differentiated from an ordinary statute because it (1) creates or is constitutive of a unique political entity within our State, and (2) requires a plebiscite for its ratification and amendment. Neither this creation nor process changes the character of the document as a statute.

When reading the proposed Bangsamoro Basic Law, it is therefore presumed that all Constitutional powers of government and the Constitutional Commissions and bodies remain intact, regardless of whether the law explicitly provides for it or not. There is no creation of a separate kind of citizen, and no creation, virtual or otherwise, of a political territory that is greater than the national government that creates it, or beyond the reach of the Constitution that allows it. There can be no surreptitious amendment of the Constitution because even if it is the intention, there can be no interpretation of the statute that could recognize it.

In *Tanada v. Angara* (1997)⁶, the Supreme Court explained the context of constitutional interpretation, thus:

⁵*Manila Prince Hotel v. Government Service Insurance System*, G.R. No. 122156, 03 February 1997, 335 Phil. 82 (1997)

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

It is not difficult to answer this question. Constitutions are designed to meet not only the vagaries of contemporary events. They should be interpreted to cover even future and unknown circumstances. It is to the credit of its drafters that a Constitution can withstand the assaults of bigots and infidels but at the same time bend with the refreshing winds of change necessitated by unfolding events. As one eminent political law writer and respected jurist explains:

“The Constitution must be quintessential rather than superficial, the root and not the blossom, the base and framework only of the edifice that is yet to rise. It is but the core of the dream that must take shape, not in a twinkling by mandate of our delegates, but slowly ‘in the crucible of Filipino minds and hearts,’ where it will in time develop its sinews and gradually gather its strength and finally achieve its substance. In fine, the Constitution cannot, like the goddess Athena, rise full-grown from the brow of the Constitutional Convention, nor can it conjure by mere fiat an instant Utopia. It must grow with the society it seeks to re-structure and march apace with the progress of the race, drawing from the vicissitudes of history the dynamism and

⁶*Tanada v. Angara*, G.R. No. 118295, May 2, 1997, citing Justice Isagani A. Cruz, *Philippine Political Law*, 1995 Ed., p. 13, quoting his own article entitled, “A Quintessential Constitution” earlier published in the *San Beda Law Journal*, April 1972; underscoring supplied.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

vitality that will keep it, far from becoming a petrified rule, a pulsing, living law attuned to the heartbeat of the nation.”

The task of interpreting the BBL, in the context of the Constitution, will not be easy. Parallel interpretations may be possible. Different sets of experts can take polarized positions. As the statement of the fourteen constitutional framers pointed out:

The challenge of the BBL presents to us another chance at national incandescence. It is within our reach. Let us set aside partisan politics and stop the urge to exhibit our ability to find nuances of legalism that can delay, or worse, derail, the process, feeding on the cynicism and playing on the fears in the national psyche that are more reflex reaction than reasoned response.

Former Speaker and Commissioner Jose Laurel Jr. described the new Constitution as the imprisonment of the past and the unfolding of the future.

It has been 27 years since it was approved by our people but we are still living in the mass poverty, gross inequalities and cultural inequities of the past, and the promise of genuine social change has not unfolded. There is no better way to demonstrate our commitment to peace and development than by giving the Bangsamoro people the opportunity to create a

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

higher and better future for themselves than what they have.
**This calls for courageous statesmanship from our
 leaders and the generosity of spirit of a united nation.**

The Constitution, which is the fundamental source of both the mandate for government to grant autonomy, and of the right of the concerned regions to receive such meaningful autonomy, should not be used as the primary obstacle for achieving its own purpose. Otherwise, the Constitution that has long been recognized as a powerful symbol of the nation's struggle for liberation, will become an impermeable prison for itself.

Furthermore, each branch fulfills their responsibilities using unique terms of art. In this unique instance, what is presented to Congress is a draft law created by a special peace panel from the Office of the President. This is a rare instance where the executive participates in law making and not just in execution. Similarly, Congress also participates in statutory interpretation as it contemplates the meaning and purpose of the draft BBL.

Within the context of conflict resolution and peace building, the government – all three main branches – are seen as a single unit and with the sensitivity of peace, the language of the peace agreement must be able to reflect this. The Executive as peace negotiators, Congress as lawmakers and the Judiciary as law interpreters are not in competition for meaningful peace against the other. While each branch performs their respective roles and each fulfills their responsibilities, all should take

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

greater care to respect this language of the other to create an agreement with a unified language of peace.

In all, the Constitution is not a bundle of legalisms for legal scholars to debate on its nuances that they alone know. It is a document meant to be read broadly and understood by the people and liberally interpreted in their favor. The BBL is a political experiment “as all life is an experiment”⁷ and gives our lawmakers an opportunity to bring it to fruition instead of declaring it “unconstitutional and stillborn at the outset”.⁸ Stated differently, any interpretation of any Constitutional provision that leads to war and abject poverty could not have been its intention.

II. Specific Issues

With the foregoing key premises serving as framework for the discussion, the Cluster analyzed main principles and contentious issues, which are grouped together into six major categories: (a) Social Justice; (b) Statehood, and Form/System of government; (c) Intergovernmental Relations; (d) Justice System; (e) Constitutional Bodies; and (f) Plebiscite. These issues will be discussed next.

A. General Principle of Social Justice

⁷ Oliver Wendell Holmes

⁸ Pacifico Agabin & Oscar Franklin Tan, *A Liberal Interpretation of the Bangsamoro Basic Law*, J. INTEG. B. PHIL. (2015) (for publication). Hereinafter AGABIN AND TAN.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Since the creation of a meaningful autonomy in Muslim Mindanao is a social justice issue, as well as a human security issue, it is suggested that (1) the Preamble explicitly state the principle of social justice; and (2) Article IV, Sec. 7 on “General Principles” include the definition on social justice provided in the Constitution, which provides broader rights than that expressed in the BBL.

B. Statehood, and Forms/System of Government

There are several objections to BBL provisions because of the fear of an intended or unwitting creation or recognition of a separate Bangsamoro state. The absence in the Constitution of the power to create independent state notwithstanding, a brief discussion on statehood may be warranted.

The creation of a State is a complex matter in international law. At one time, there was an attempt to describe a state in the Montevideo Convention of 1933. But like most things in international law, it is not a simple checklist that once fulfilled requires an automatic response from other states to recognize statehood.

The Montevideo Convention describes a state as composed of a territory, a people, a government, and the capacity to enter into relations with other states (sovereignty). Fears of statehood relate to these very provisions in the BBL as discussed below. A cursory application of this criteria, as has been suggested, would make Davao or Makati a state. For that matter,

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the European Union would be a state. Over time, there have been suggested clarifications or additions such as an “independent” government – that is, not dependent on a parent government - an exclusive power or “monopoly” of entering into particular relations with other states involving more than commercial transactions, or even compliance with certain international norms.

More certain are that (1) achieving statehood is extremely complex; (2) secession is discouraged; and (3) acquiring territory by the use of force is prohibited, much less through acts of terrorism. At best, some form of belligerency may turn into statehood in cases of colonial domination, occupation by another state, or racist regimes, but even these cases are extremely rare and do not apply to the Philippines. Furthermore, if one state assists a revolutionary group within another state, this can be considered such threat or use of force, or an act of war, prohibited by international law, subject to stern international reprimand and severe international sanctions.

1. People

Defining a Bangsamoro People does not create a new citizenry or nationality.

“The definition of ‘Bangsamoro People’ in Article II, Section 1 is only an affirmation of identity, not a definition of citizenship in the Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Entity.”⁹ The word “peoples” is used as a descriptive term with respect to “Indigenous Peoples”, of which the Bangsamoro People is a part. There does not appear to be any indication or intent to create a new kind of citizen. The use of the term “citizen” as used in the BBL appears generic and refers to all, whether part of the Bangsamoro People or not. As such, no discrimination appears explicitly or impliedly. The non-Bangsamoro do not lose civil or political rights, and qualifications for candidacy in the Bangsamoro do not require identification as a “Bangsamoro People”.

“Who belongs to the ‘permanent population’ (that constitutes) a state is determined by the internal law on nationality, which international law leaves to the discretion of states, except for a number of limited circumstances.”¹⁰ Philippine citizens are determined by the Constitution and regardless of however else a group of peoples may describe or identify themselves, we continue to identify them all as citizens of the Philippines.

Where the term “citizen” may be interpreted as restrictive, as in the case of the Social Justice provision (Article IV, Section 7), the term “constituent” or “inhabitant” may be applied in its stead. Otherwise, the BBL provisions describing a “Bangsamoro people” may stand without need of clarification.

⁹ AGABIN AND TAN.

¹⁰ Akehurst’s Principles of International Law 76-77.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

2. Territory

Defining a Bangsamoro territory does not create or imply an independent state.

The word “territory” whether in legal¹¹ or on ordinary parlance¹² means generally an area under a particular jurisdiction. An area with its own defined area, jurisdiction, or rules does not make that territory independent from its parent state. It is used to describe trust territories, incorporated and unincorporated territories, occupied territories, non self-governing territories, dependent territories, or external and internal territories, each with varying degrees of powers and independence and historical antecedence. Not even the use of the term “nation” implies independent statehood, and when not associated with the nation-state, also is more closely associated with the term “people” and refers to a common ethnicity.

The Constitution describes provinces, cities, municipalities and barangays as “territorial subdivisions”¹³, and describes adjacent “territories” of legislative districts.¹⁴ The Local Government Code frequently refers to the

¹¹ Black’s Law Dictionary cited in the position paper of retired Justice Vicente V. Mendoza.

¹² New Oxford American Dictionary.

¹³ Art. X, Sec. 1, 1987 Constitution.

¹⁴ Art. VI, Sec. 5, 1987 Constitution.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

areas of local government units as “territories”.¹⁵The Constitution’s Article X, Section 20, speaks of the “territorial jurisdiction” of the autonomous regions.

In international law, a state with a defined territory generally has an exclusive competence of all legal or factual measures within that territory. In the BBL, the Bangsamoro does not have nor is contemplated to have this exclusive competence. Whatever powers are not shared or granted by the national government remain in the national government, a general enumeration of “exclusive” powers notwithstanding.

Most telling, as with the current ARMM Organic Acts, is the declaration in the BBL that the Bangsamoro territory “shall remain a part of the Philippines.”¹⁶

However, as regards the opt-in provisions of “contiguous territories”, the core Bangsamoro territories should not be allowed to increase indefinitely by the periodic vote of 10% of registered voters in the outer territories. The establishment of a plebiscite that fixes the territory is a Congressional prerogative that cannot be delegated.

A perpetual opt-in provision makes the Bangsamoro territory indefinite and keeps the organic act in constant flux. Since the creation of an

¹⁵ Secs. 15, 174, 386, 442, etc., R.A. 7160 as amended, hereinafter the “Local Government Code.”

¹⁶ Art. III, Sec. 1, House Bill 4994.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

autonomous region, including the definition of its territory, is the sole function of Congress, such changes of territory that establishes the limits of the region requires specific acts of Congress. An indefinite opt-in provision would be an undue delegation of legislative power to a possible erratic 10% of an indeterminate population.

For purposes of clarity, it is therefore recommended that references to the opt-in provisions in Article III, Sec. 3, and in Article XV, Sec. 4 be deleted. Otherwise, the definition of the “Bangsamoro territory” in the BBL may stand without need of amendment.

During the April 18 plenary discussion, some participants inquired if the removal of Article III, Sec. 3 and Article XV, Sec. 4, would prevent any future expansion of the territory of the region. The Cluster clarified that the future expansion of the Bangsamoro territory would still be possible, but any such future expansion of the territory should proceed from an act of the Legislative, and subject to ratification in a plebiscite. As presently worded, however, Art. XV, Sec. 4 would allow the expansion and subject such adjustment of the territory to a plebiscite, by the mere petition of 10% of the population of the concerned area.

3. Self-determination

The right of self-determination is a right of all peoples and is not equivalent to the right to statehood. Its claim and use in the BBL is not a

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

promise of secession but a declaration of a right all Filipinos possess. The Constitutional promise to the Muslim Mindanao and the Cordilleras of their own autonomous region is itself recognition of the need for the peoples identified therein to exercise differently their own right to self-determination as part of the larger Filipino nation.

“Self-determination” was popularized around the early 20th Century when there were increasing moves to decolonize. It is within the era of decolonization that self-determination implied secession. Outside of decolonization, there is no such link. Self-determination is therefore generally understood to mean what our own Supreme Court has recognized as “internal” self-determination. While international law recognizes the right to self-determination of peoples, there is no right to statehood, and there is no right to secession. As international law encourages peoples to determine their destiny, it also frowns upon the destabilization of states and breaches of international peace that would occur if there was constant internal struggle to secede, and where groups of “peoples” can be formed based not only on religion, but on race or ethnicity, or any other criteria.

The BBL provision may stand without need of clarification.

4. Parliamentary form

Our Constitution permits a parliamentary form of government in local government units.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The prescribed unitary and Presidential form of government established in the Constitution refers to the national government. When it comes to local government units, however, the Constitution “only requires that the government of an autonomous region ‘consist[] of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units.’¹⁷ This is met in the BBL even though the Chief Minister of the Bangsamoro Entity is elected by the Bangsamoro Parliament and not directly by the electorate, as there is no requirement in the Constitution that the autonomous region’s chief executive be directly elected.”¹⁸ In fact, Congress may provide a different government structure within all local government units. The Constitution only requires Congress to “enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization....”¹⁹ What structure is “more responsive” and “accountable” is left to the wisdom of legislature.

There are provisions related to the parliamentary form of government that need some refinements. First, there is a need to harmonize the use of terms. In Article IV, Section 2, the BBL provides that the Bangsamoro Government shall be parliamentary. In Section 3 of the same article, however, the BBL uses the term, “ministerial form of government”. **To avoid any confusion and possible misinterpretation, it is**

¹⁷ Art. X, Sec. 18, 1987 Constitution.

¹⁸ AGABIN AND TAN.

¹⁹ Art. X, Sec. 3, 1987 Constitution.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

recommended that the term “ministerial” be dropped, and replaced with “parliamentary” for consistency and clarity.

Second, the BBL’s Article VII, Section 34 provides for the call for a new parliamentary elections, upon a two-thirds (2/3) vote of no confidence of all members of Parliament against the government of the day. While this may be one of the models of the parliamentary form of government, it may mean the holding of elections for the Bangsamoro parliament every time there is a no confidence vote, i.e., not later than one hundred twenty (120) days from the date of dissolution. This will run counter to the constitutionally mandated synchronization of national and local elections, which, as held in the recent decision in *Abbas Kida v. Senate*²⁰, should include the ARMM elections, as it is a “local” election based on the wording and structure of the Constitution. **To address this, it is recommended that the vote of no confidence must affect the government of the day, not the parliament, so that parliamentary elections in the Bangsamoro can be synchronized with other national and local elections.**

Aside from these two areas, the BBL provision may stand without need of clarification.

²⁰ G.R. No. 196271, October 18, 2011.

5. Separation of church and state

Passing the BBL does not constitute establishment of religion, much less enforce one upon Filipino citizens. The creation of an autonomous “Muslim” Mindanao or the use of a “Wali” as a titular head of the Bangsamoro does not violate the principle of separation of Church and State.

A Wali is not required to be a religious person, and as described or defined, is as much a guardian or head. As it is, our own Constitution does not prevent priests from holding public office, only that there are no religious sectors. “Muslim Mindanao” is a term used in the Constitution to describe the autonomous region and as a proper recipient of government money as a government unit. It is meant to be as descriptive as the term “Christian majority” is used to describe the rest of the country. The BBL actually secularizes the name further by using the word Bangsamoro with more emphasis on their historic character than a religious one. Payments made by the Central government to the Bangsamoro government would not necessarily be payments made to establish Islam, and any accusation otherwise can be settled by the court.

The manner of implementation must be allowed flexibility. In all governments, there is some manner of religious morality within the laws. As Bernas would point out, “Modern society is faced with the phenomenon of expanding government reaching out its regulatory arm to an ever growing variety of areas of human action and the phenomenon of a

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

growing articulation and acceptance of an expanding concept of religion.”²¹

The BBL provision may stand without need of clarification.

C. Intergovernmental Relations

1. Allocation of powers

The powers of government are classified in the BBL as: (1) those that are reserved to the Central Government; (2) powers that are concurrent between the Central Government and the Bangsamoro Government; and (3) powers that are exclusive or devolved to the Bangsamoro Government. This allocation of powers is consistent with the mandate of the Constitution. The recommendations of the Cluster only pertain to minimal revisions and additional wordings.

The grant of exclusive powers to the Bangsamoro Government is not tantamount to a superior Bangsamoro Government or a weakened Central Government. It only refers to powers that are devolved to the Bangsamoro Government, which remains under the Central Government, but as an autonomous region.

²¹Bernas, The 1987 Constitution of the Republic of the Philippines, A Commentary, 329, (2009).

To remove such misunderstanding, the title on exclusive powers²² may be amended to state: Section 3. Exclusive and Devolved Powers to emphasize that the source of this exclusivity is devolution of powers.

The difference with respect to the creation of Autonomous Regions is the Constitutional right to greater delegated powers with more freedom to use it, not as compared to the national government, but compared to other political subdivisions.

The term “autonomy” has many definitions. It can mean “independence” and “freedom from external control”, but it also means “self-government” or more simply, “something that exists separately from other things.” The word “autonomy” alone does not have a specific implication or legal consequence in international law. For that matter, neither does “self-governance” or even “independence.” In the myriad of states and kinds of governments within states all around the world, descriptions of internal organizations may have different meanings. One must also remember that many are created using different languages and even within the same language, there are evolved meanings, much like our legal terms have different implications from the same words used in the United Kingdom or Australia. It is difficult to make definite statements in international law about words intended for local use unless a number of other factors come into play. Since the Philippine Constitution does not allow the creation of any other state or secession of any peoples, the BBL provisions can imply

²² HB 4994, Art. V, Sec. 3.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

nothing more than internal organization and creation of the Bangsamoro nation as an internal subdivision of the State with designated powers. Congress would have no authority to do anything more.

2. Inter-governmental relations, General Supervision

Intergovernmental relations in the BBL refer to the concept of devolution as inspired by the principles of subsidiarity. The President exercises general supervision only over the Bangsamoro government as required by the Constitution.²³ This is clear in the BBL, and there is no provision that indicates a reduced power of the President. Running parallel to the principle of subsidiarity is the principle of solidarity as an inherent right and duty of the State, and not just of the President. As provided in Sections 1 and 6 of Article XII, all areas of economy, whether in the declaration that all economic agents “contribute to the common good”, where all regions are given the optimum opportunity to develop,²⁴ or where the private sector is encouraged to broaden its base of ownership,²⁵ and own and operate economic enterprises,²⁶ these rights are always subject “to the duty of the State to promote distributive justice and to intervene when the common good so demands.”²⁷

²³ HB 4994, Art. VI, Sec. 3.

²⁴ Art. XII, Sec. 1, 1987 Constitution.

²⁵ Art. XII, Sec. 1, 1987 Constitution.

²⁶ Art. XII, Sec. 6, 1987 Constitution.

²⁷ Art. XII, Sec. 6, 1987 Constitution.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The principle of solidarity is already reflected in the BBL section on Devolution and Subsidiarity requiring all governmental decisions to adhere to “considerations of good governance and the general welfare”.

It is therefore suggested for greater emphasis, that the Article VI, Sec. 6 on Devolution and Subsidiarity be amended to read “Principles of Devolution and Subsidiarity, *and of Solidarity*” and that all BBL provisions that refer to the principle of subsidiarity, such as the Preamble should concomitantly include the principle of solidarity.²⁸

Furthermore, it is recommended that the first paragraph of the Preamble may also emphasize the central theme of social justice and the common good by providing that: "We, the Bangsamoro people and other inhabitants of the Bangsamoro, imploring the aid of the Almighty God, aspiring to establish enduring peace AND JUSTICE AND A REGIME OF SOCIAL JUSTICE AND FULL HUMAN DEVELOPMENT WHERE THE POOR ARE THE CENTRE OF DEVELOPMENT, AND ASSERTING OUR RIGHT TO CONSERVE AND DEVELOP OUR PATRIMONY FOR THE COMMON GOOD.

²⁸i.e, HB 4994, Art. VI, Sec. 6; HB 4994, Art. XIII Sec. 31 (a); Preamble.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

3. Asymmetric relationship²⁹

Some comments on the BBL equate the asymmetric relationship between the Central Government and the Bangsamoro Government as similar to the associative relationship that was rejected by the Supreme Court in the BBL's predecessor, the MOA AD.³⁰ A simple perusal of the BBL, in relation to the allocation of powers and the inter-governmental relations, as discussed earlier, will clearly demonstrate that "asymmetric relationship" is different from "associative relationship".

To obviate any doubt as to the meaning of "asymmetric relationship," a definition of the term in the BBL may be inserted. The proposed definition would state that the term "asymmetric relationship' refers to the relationship between the central government and the Bangsamoro government as an autonomous region, where, as provided under Section 15, Article X of the 1987 Constitution, the autonomous regions are granted more powers and less intervention from the national government than territorial and political subdivisions." The term "territorial and political subdivisions" refers to other local government units. This is a combination of the definition proposed by Dean Antonio G.M. La Vina and the description provided by Justice Marvic Leonen in his Concurring Opinion in the case of *League of Provinces of the Philippines v. DENR*.³¹

²⁹ HB 4994, Art. VI, Sec. 1

³⁰ *Province of Cotabato vs. GRP*; GR No. 183591 (October 14, 2008)

³¹ *League of Provinces of the Philippines v. DENR*, GR No. 175368, 11 April 2013

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Incidentally, the reference to the term “Central Government” in the BBL may be to avoid an interpretation where “National Government” encompasses all of government, including local governments. The use of the term Central Government may be useful to emphasize that the Bangsamoro Government is outside the supervision of any local government unit.

4. Powers of the Bangsamoro Parliament

The enumeration of powers given to the Bangsamoro parliament under the BBL is consistent with the Constitutional provision. Article X, Section 20 of the Constitution is broad enough as it includes a paragraph on “(s)uch other matters as may be authorized by law for the promotion of the general welfare of the people of the region.” The potential overlap between the legislative powers of the Congress, and the Bangsamoro parliament, which is objected to by some experts, is an unavoidable consequence that is also true as far as the legislative powers of regular local government *sanggunians* are concerned. These potential overlaps, or even conflicts, should be addressed by the application of the principles on hierarchy of laws, and on conflict of laws.

As regards the power of the Bangsamoro Parliament to enact a law that will create, divide, merge, abolish or substantially alter

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

boundaries of provinces, cities, municipalities or barangays,³² this is a power that can be delegated to local government units and the Bangsamoro government can rightly exercise such delegated power. Under the Local Government Code, *sangguniang panlalawigan* and *sangguniang panlungsod* are authorized to create barangays.³³

5. Exploration, Development and Utilization of Natural Resources

The grant to the Bangsamoro Government of the authority, power and right to explore, develop and utilize the natural resources within its territorial jurisdiction is an acceptable formulation.³⁴ The National Government, pursuant to the principles of subsidiarity and solidarity, may authorize the Bangsamoro Government to develop resources within its territorial jurisdiction. Similar authorizations have been done in the ARMM Organic Acts.³⁵ The BBL likewise provides for preferential rights of bona

³² HB 4994, Art. V, Section 3 (57). The provision clarifies that when such acts require the creation of a congressional district, the Bangsamoro Government shall cooperate and coordinate with the Central Government. This is in accordance with the Supreme Court decision in *Sema v. COMELEC* (GR No. 177597, July 16, 2008).

³³ Article 385.

³⁴ HB 4994, Art. XIII, Section 13

³⁵ See RA 6734, Art XIII, Sec 2, and Art. III, Sec. 8; RA 9054, Art XII, Sec 5 (a), and Art. III, Section 8.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

fide inhabitants of the Bangsamoro, and preferential rights of indigenous peoples within their area.³⁶

Such authorization given to the Bangsamoro Government must be understood as subject to the provisions of the Constitution on National Economy and Patrimony.

6. Fiscal autonomy

There is no constitutional infirmity in the provisions of the BBL on fiscal autonomy.³⁷ The block grant is not akin to the PDAF that was declared unconstitutional by the Supreme Court.³⁸ The block grant referred to in the BBL is similar to the Internal Revenue Allotment (IRA) under the Local Government Code (LGC). In fact, the wording of BBL's Article XII, Section 15-17 is very similar to the LGC's formulation in its Section 284 and 286. Similar to the provisions concerning the IRA for ordinary local governments, the block grant for the autonomous region is a faithful adherence to the Constitutional mandate that local governments shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.(ART. X. Sec. 6)

³⁶ HB 4994, Art. XIII, Sec. 11 and 12.

³⁷ HB 4994, Art. XII, Sec 1, 15-16.

³⁸ Belgica, et al vs Ochoa, et al., GR No 208566 (November 19, 2013)

D. Justice System

1. Shari'ah law

The BBL's Art. X, Sec. 3, provides for the power of the Bangsamoro Parliament to enact laws pertaining to "persons and family relations, and other civil law matters, commercial law, criminal law, including the definition of crimes and prescription of penalties thereof." **This provision is within the powers of the legislature to delegate to local governments as provided for in Art. VI, Sec.1 of the 1987 Constitution. Despite the restrictive wording in the Constitution's Art. X, Sec. 18 and Sec. 20 (4), which provides that legislative powers of the autonomous region may only extend to "personal, property, and family relations", Sec. 20 (9) also provides that the organic act shall provide for legislative powers over "such other matters as may be authorized by law for the promotion of the general welfare of the people of the region."**

2. Jurisdiction of Shari'ah courts

Art. X, Sections 5, 6, and 7 of the BBL provides for the establishment of Shari'ah Circuit Courts, Shari'ah District Courts, and a Shari'ah High Court, respectively. **These provisions are within the power of Congress to define and expand the jurisdiction of courts.** Under the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Constitution, the Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts. (Article VIII, Section 2). Hence, this legislative power can be included in the additional matters that the Congress can authorize the autonomous region to possess.

Furthermore, it should be clarified that Judicial Authority is not being granted the Bangsamoro Government. It must be noted that, in BBL's Article VII on the Bangsamoro Government, there is a set of provisions on the parliament, and a set of provisions on the Executive Officers, but none on a judiciary. Judicial power remains with the Supreme Court, which is vested by the Philippine Constitution with such power (Art. VIII, Sec. 1, 1987 Constitution). The BBL envisions the creation of special lower courts under the control and supervision of the Supreme Court. Art. X, Section 1, of the BBL provides that the justice system in the Bangsamoro shall consist of the Shari'ah law (should read as "court") with application over Muslims only, the traditional or tribal justice system, for the indigenous peoples in the Bangsamoro, the local courts, and alternative dispute resolution systems.

3. Finality of decisions of Shari'ah High Court

The BBL's provision (Art. X, Sec. 7) may be seen as being unconstitutional for limiting the jurisdiction of the Supreme Court provided under Sec. 5, Art. VIII of the Constitution, which jurisdiction Congress may not amend under Sec. 2, Art. VIII. The provision states that the decisions

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

of the Shari'ah High Court shall be final and executory. This is not unique to the BBL. The Labor Code, as an example, is replete with provisions making decisions of the Secretary, the National Labor Relations Commission (NLRC) and the Voluntary Arbitrator "final and executory". Despite this wording, however, the Supreme Court has consistently ruled that such decisions shall still be subject to the review powers of the Supreme Court (after going through the Court of Appeals). The only import of such wording is its effect on the mode of review of the decision which is declared "final and executory", i.e. the decision is not subject to an ordinary appeal, but reviewable only through an original action (Petition for Certiorari under Rule 65 of the Rules of Court, in the case of the decisions of the Secretary and the NLRC) or a special appeal (under Rule 43, for decisions of the Voluntary Arbitrator).

In order to avert any confusion, the provision may be amended to include the clause, "subject to the review powers of the Supreme Court."

In any case, under the Constitution, all government actions can be brought to the Supreme Court for settlement of actual controversies or when there is grave abuse of discretion.

4. Recommendations to the Judicial and Bar Council (JBC)

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Art. X, Sec. 10 of the BBL provides for the recommendatory authority of the Shari'ah JBC to the national JBC for position of judges of Shari'ah District and Circuit Courts in the Bangsamoro and the justices of the Shari'ah High Court. The provision states that the JBC shall give utmost consideration to the Shari'ah JBC nominees in recommending appointees to the President. **This is acceptable because there is no curtailment or encroachment of the JBC's powers.**

5. Jurisconsult

The BBL provides for the establishment of the Bangsamoro Jurisconsult in Islamic Law (Art. X, Sec. 21) and the strengthening of the Office of the Jurisconsult (Sec. 22).

The two provisions should be distinguished with the former pertaining to the Jurisconsult exclusive to the Bangsamoro and the latter to the National Jurisconsult under P.D. 1083. **It is proposed that the Bangsamoro Jurisconsult (under Sec. 21) should be similarly referred to in the law as "Darul-Ifta."** In order to represent the majority of the ethnic groups, it is recommended that the deputies be increased from three (3) to six (6) members and with at least one (1) woman deputy. The Parliament should be given the discretion on how to further define the powers of the Bangsamoro Jurisconsult under

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Section 21, as well as the required qualifications for the positions of the Jurisconsult (Mufti) and its deputies. As regards the strengthening of the Office of Jurisconsult under P.D. 1083, the mandate seems to be addressed to the Congress, and therefore, may be a misplaced provision in the organic act.

E. Constitutional Bodies

The BBL introduced the creation of the following bodies: (1) Bangsamoro Human Rights Commission, (2) Bangsamoro Auditing Body, (3) Bangsamoro Civil Service Office, (4) Bangsamoro Electoral Office.³⁹

The validity of the provisions on these bodies is being questioned on the main ground that that their creation and the power vested in them under the BBL are unconstitutional as they unduly assume and expand the powers vested in the national constitutional bodies.⁴⁰

³⁹Article IX, Section 7; Article V, Section 2(7); Article XII, Section 2; Article V, Section 2(8); Article VII, Section 9.

⁴⁰As gleaned from the Position Papers submitted by the Office of the Ombudsman, Philippine Constitution Association, Commission on Audit, and the Civil Service Commission.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

The wording of the BBL is clear. The Bangsamoro special bodies were created with the goal of supplementing, not supplanting, the work of their national counterparts. As such, sections which provide for the creation of these Bangsamoro bodies include the clause, “without prejudice to the powers, authorities, and duties” of the National Constitutional bodies (for the civil service and the auditing bodies), and the clause, “shall have a coordinative and complementary relationship” (for the Human Rights Commission).

The way that the BBL is structured would show that the powers exercised by the Bangsamoro special bodies are *not exclusive powers but concurrent powers* meant to be exercised in a coordinative and complementary manner with the National Constitutional Bodies, and without prejudice to the constitutional bodies’ exercise of their respective mandates and powers under the Constitution.⁴¹

The comment of the Commission on Audit (COA) on this issue is enlightening. In COA’s Position Paper,⁴² it was recommended that the Bangsamoro Auditing Body “could only mean or refer to an internal body or office, an internal auditor, in the nature of and within the functions provided in Republic Act (RA) No. 3456, as amended by RA No. 4177,

⁴¹ Article V, Section 2(7) and (8)

⁴² Position Paper submitted by COA to Honorable Rufus B. Rodriguez through a letter dated October 7, 2014, signed by COA Commissioner-in-Charge Heidi L. Mendoza.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

otherwise known as the Internal Auditing Act.” This means that the Bangsamoro Government is not precluded from creating a special body, like an auditing office, as long as it will be considered as an internal body, which will not, in any way, prevent or obstruct the functions and powers of the COA.

The reference to the Human Rights Commission, Auditing Body and Civil Service Office as “constitutional bodies” is inaccurate and may be misleading. They can be distinguished from other offices, which the Bangsamoro Government may later establish, because they have been specifically mentioned in the organic act, the BBL. They derive their basis of existence not from any ordinary law that may be promulgated by the Bangsamoro parliament, but from the organic act itself. This does not mean, however, that they are “constitutional bodies” in the sense that they can adversely affect the roles, mandates and powers of the Constitutional bodies – COA, CSC, and CHR.

The Bangsamoro Electoral Office is distinct, for there is a categorical provision saying that it shall be part of the Commission on Elections (Art. VII, Sec. 9). In fact, even its budget is part of the appropriations of the National COMELEC. Thus, the electoral office is not among the concurrent powers (Art. V, Sec. 2), as the evident intent is for the Bangsamoro Government not to have its own election office, leaving these functions solely with the national government.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Where the last sentence of Article V, Section 2(8) of the BBL reads: ***“The Bangsamoro Government shall have primary disciplinary authority over its own officials and employees”***, it is proposed that the phrase ***“without prejudice to the powers of the CSC and the Ombudsman”*** be inserted to address the Ombudsman’s concern that said section diminishes the Ombudsman’s mandate over public officials and employees.

F. Plebiscite

For the establishment of the Bangsamoro and the determination of the Bangsamoro territory to take effect, the BBL requires the ratification of the BBL itself by majority of the votes cast in a plebiscite in the geographical areas enumerated therein.⁴³ The plebiscite requirement adheres to the Constitutional provision on the process for creation of the autonomous region. The Constitution is categorical in saying that 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. (Art. X, Sec. 18)

Sec. 3 (e) of BBL’s Art. XV provides for the opt-in of contiguous areas where there is a resolution of the local government unit or a petition of at least 10% of the registered voters in the geographical area for their

⁴³ Article XV, Sec. 1 BBL

inclusion, and majority of the registered voters vote for their area's inclusion in a plebiscite called for that purpose. This must be distinguished from Sec. 4 of the same article, which was discussed earlier in the portion on Territory. Sec. 3 (e) refers to the inclusion of contiguous areas in the plebiscite for the approval of the BBL, while Sec. 4 applies to the addition of contiguous areas after the ratification of the BBL. **Sec. 3 can be maintained as it is still consistent with the single plebiscite process.**

III. Summary of Findings

The Cluster's analysis of the major contentious issues on the BBL, as discussed above, leads to the following major findings.

- A.** The BBL does not vest statehood to the Bangsamoro Government. The provisions on "people," "territory," and "self-determination" are not vestiges of a separate state, but are consistent with the constitutionally mandated creation of autonomous regions.
- B.** The Bangsamoro Government, as constituted in the BBL, is compliant with the requirements of the Constitution. The government, with an executive department and legislative assembly, has officers that are elective and representative of the constituent political units.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- C. The inter-governmental relation between the National Government and the Bangsamoro Government is consistent with the allocation of powers mandated by the Constitution. The defined relationship between the National Government and the Bangsamoro Government embodies the essence of genuine autonomy, based on principles of subsidiarity and solidarity.
- D. The Supreme Court and the Constitutional Bodies continue to maintain the powers that are given them under the Constitution. There is neither substitution nor diminution of powers intended or effected by the creation of the Bangsamoro human rights, auditing, civil service, and electoral offices.
- E. The plebiscite requirement in the BBL adheres to the provision of the Constitution on the process for creation of the autonomous region.

In sum, the BBL complies with the Constitution's mandate for the creation of autonomous regions, "within the framework of (the) Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines."

While imperfect, it is a significant document that should serve as catalyst for building national consensus towards the realization of the long term aspiration, expressed by the country three decades ago, for justice, solidarity and peace, for Mindanao, and for the entire Philippines.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Report of Cluster on Economy and Patrimony

Introduction

In conducting its analysis of the BBL, the Economy and Patrimony Cluster of the Peace Council (“Economy Cluster”) reviewed the relevant articles of the BBL and related resource materials such as the Bangsamoro Development Plan (BDP), consulted with BBL experts and stakeholders, and held a detailed discussion of the BBL with members of the Economy Cluster and resource persons. A summary of the discussion on the potential economy and patrimony-related issues relating to the BBL is presented in Section II, and the Economy Cluster’s key learnings from this exercise are summarized in Section III.

It is important to note that there are numerous resource materials on the Bangsamoro, the BBL and the BDP available in the public domain. These materials reflect the considerable work already done by organizations such as the Bangsamoro Development Agency, the Philippine Center for Islam and Democracy (PCID) and the Foundation for Economic Freedom (FEF), among others. In particular, the workshop materials, working papers and presentations that came out of the November 2013 forum on the Business and Investment Climate of the Bangsamoro organized by PCID, FEF and Australian Aid provided significant resource material for

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the Cluster. A list of these and other selected resource materials are provided in Section III of this cluster report.

I. Framework

In the plenary discussion, it was pointed out that the bottom line for the private sector is how the passage of the BBL and the eventual establishment of the Bangsamoro government will ultimately benefit the investment environment and the economic growth in the region. The plenary recommended, however, that the opportunities in the Bangsamoro should be highlighted, not only for the business sector, but also for the consumers, Muslims, Christians and Lumads alike. Likewise, there is a need to underscore the positive aspects of having a Bangsamoro government, such as the attraction of new markets, especially consumers coming from Arab countries, and increased engagement with Muslim Southeast Asian countries, such as Indonesia and Malaysia.

Another opportunity that will come in the establishment of the Bangsamoro government is that it can be a model for the ASEAN on the issue of regional autonomy among its members, particularly for Thailand and Myanmar, who are facing similar challenges with their own secessionist movements. The Bangsamoro can also present an opportunity for friendly competition between the Bangsamoro economy and that of the Christian majority in the country.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Private sector development comes with sourcing raw materials from natural resources, hence, together with opportunities, the Bangsamoro region also creates the possibility of exploitation and unequitable distribution of the benefits derived from increased economic activities and growth. This concern raises the question on social justice as a framework of the BBL and its relation to the use of natural resources in the area, especially the exploitation of areas that are under the stewardship of marginalized communities, such as the native indigenous peoples, and the impact of such activities to the poor.

Although there is a perception that private interests are often opposed to social justice, there are cases that private interests contribute to its promotion. An example given in the plenary is the current partnership between the Bangsamoro Development Agency (BDA) and the private sector in adopting standardization measures in the production of crops while promoting environmental stewardship.

It is in this context that the provisions stipulated under Article XIII, Section 8 of the BBL is raised, wherein the protection and conservation of natural resources is given priority, among others. The plenary also arrived at a conclusion that proper stewardship of the environment in relation to provisions on social justice is a question of governance and leadership in the future Bangsamoro government. The BBL presents an opportunity for the leadership to do it right from the very beginning. The business sector, as they become part of the community they enter, can reset its

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

development framework by helping the leadership and locals do things right from the very start.

The plenary highlighted the importance of “common good,” which is deemed as a concept that defines the effect of social justice, and upheld its position that the poor should be the center of human development and social justice in the Bangsamoro.

To reiterate the importance of promoting the notion of common good in the Bangsamoro, the plenary suggested the inclusion of the “right to common good” under the provision on Concurrent Powers (Article V, Section 2), along with the intergenerational responsibility to care for the environment.

In conclusion, although the plenary discussion projected a positive note, it should be noted that the discourse focused on certain provisions of the BBL only and that resolving the contentious issues concerning said provisions does not mean that the provisions will not have problems. Local government executives can derail a business investment, but this is not because of the BBL. Possible concerns that may arise should not be attributed to the BBL because investment challenges are not mutually exclusive to the Bangsamoro area but also happen to the rest of the country as well.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

II. Issues on the BBL Requiring Clarification

The discussion below presents the economy and patrimony-related issues relating to the BBL that can be addressed as a matter of clarification to the public. For each item, the first section outlines the provision/s in the BBL relating to the subject title, while the second section expands on the potential issue(s) that could arise out of that specific provision. After the presentation of the provision/s and the potential issues, the Cluster's position is provided.

A. Natural Resources

Under the BBL, In Bangsamoro Region

The Bangsamoro government shall have exclusive powers on ancestral domain and natural resources.⁴⁴ Exploration, development and utilization of fossil fuels and uranium shall be under the joint authority of the Bangsamoro and Central Governments.⁴⁵ On mines and mineral resources, permits and licenses and the grant of contracts shall be within the powers of the Bangsamoro Government except for Financial and Technical Assistance Agreements (FTAAs) which require the approval of

⁴⁴ Sec. 3 (29), Art. V, Draft BBL.

⁴⁵ Sec. 10, Art. XIII, Draft BBL.

the President.⁴⁶ The Bangsamoro Government shall also regulate small-scale mining in Bangsamoro.⁴⁷

Potential Issue/s

In the case of the fossil fuels and uranium, for other local government units (LGUs), the LGU is only entitled to an equitable share in the proceeds thereof; whereas under the BBL the Bangsamoro government will be a joint authority over related projects. The public might question as to why the Bangsamoro is afforded this authority.

Overall, there is also uncertainty on how this will affect the private sector's ability to invest in natural resource-related sectors, such as mining and others.

Cluster View

This is not an issue, as according to DENR, such authority has already been afforded to the ARMM government. The latter has already been issuing its own mining permits.

⁴⁶ Sec. 13, Art. XIII, Draft BBL.

⁴⁷ Sec. 15, Art. XIII, Draft BBL.

B. Labor Matters

Under the BBL, In Bangsamoro Region

The Bangsamoro government may organize its own social security and pension systems⁴⁸ and enact new laws on labor and employment applicable only in Bangsamoro.

Potential Issue/s

The social security and pension of employees and laborers in other parts of the Philippines are governed by existing laws on SSS, Pag-ibig Fund, Philippine Health Insurance, GSIS. On labor and employment, the governing laws are the Labor Code of the Philippines for employment in the private sector, and Civil Service Law for employment in the public sector. The public may question why the Bangsamoro government is granted this authority to differentiate its labor laws from the rest of the country.

Cluster View

This is not an issue. Under the present Organic Act governing the ARMM, the ARMM Department of Labor and Employment (DOLE) already has this degree of independence.

⁴⁸ Sec. 2 (1), Art. V, Draft BBL.

Employment statistics in the Bangsamoro, both in terms of number of jobs and wages, have significantly lagged behind the national averages. At present, there are no labor unions in the region. Any wage disparities between the Bangsamoro region and the rest of the country will be managed by the former's local wage boards that will be coordinating with the relevant national agencies.

However, there needs to be clearer indication on the Bangsamoro legislature's authority to legislate deviations from provisions of the national Labor Code, including on items of strong concern to the private sector such as rules on full time/part time work. For example, there could be a provision that deals with the common practice of "lending" one's job to another family member by having him/her substitute occasionally for the job holder (a practice known in some parts as *sumpat*). Provisions on contractual jobs can also be established

C. Land Registration, Management, Distribution and Classification

Under the BBL, In Bangsamoro Region

Under the BBL, the land registration system to be followed is that of the Central Government. But pertinent laws pertaining to land acquisitions and transfers shall be enforced, implemented and administered in

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Bangsamoro by a new office to be created by the Bangsamoro Government.⁴⁹

Potential Issue/s

For the rest of the country, the Land Registration Authority, together with the various Registers of Deeds in the different localities and jurisdictions, administers the land registration system.

The Bangsamoro government expects to have one central agency for land ownership and titling, which could be an even more efficient mechanism relative to that of the national government where there are many agencies with overlapping mandates regarding land administration and management.

Cluster View

This is not an issue. Land titles that are already registered in the national land registration system will be honored by both the Bangsamoro and national governments. It can actually be an opportunity to streamline the land management and administration in the area, which could possibly be replicated in other areas.

⁴⁹ Sec. 2(3), Art. V, Draft BBL.

D. Customs and Tariff

Under the BBL, In Bangsamoro Region

The enforcement of customs and tariff laws shall be through the intergovernmental relations mechanism adopted by the Bangsamoro and Central Government.⁵⁰

Potential Issue/s

For the other LGUs, the Bureau of Customs is the agency of the Central Government that is in charge of enforcing customs and tariff laws. The public may question why the Bangsamoro are being afforded this privilege of enforcing their own customs and tariff laws, even if in coordination with the Central Government. This may further facilitate the smuggling that is occurring in the region.

Cluster View

Further clarification can be provided on this issue. The Bangsamoro government can disclose if it will be following the national customs and tariff laws, or will be adopting a different set of rules. If it is the latter, then it must provide the rationale for it.

⁵⁰ Sec. 2 (10), Art. V, Draft BBL.

From an ASEAN perspective, tariffs are already nonexistent or close to zero except for a few sectors such as rice and sugar. Therefore smuggling should not be an issue, although smugglers may continue plying their trade to avoid VAT payments. It should be noted however that the consequences of smuggling are not so significant for imports meant for (commercial) resale, as VAT is supposed to be paid at the point of final sale, which conceptually should capture even goods smuggled in. It is the BIR's purview to effectively enforce the required VAT.

Lastly, smuggling to avoid VAT is not unique to the Bangsamoro Region, it is an issue that the rest of the country has to deal with.

E. Infrastructure

Under the BBL, In Bangsamoro Region

In Bangsamoro, the Central Government shall provide for the funding, construction and maintenance of national roads, bridges and even irrigation systems. As to applicable law, it is not clear in the draft BBL whether the general laws and programs of the Central Government relating to infrastructure development such as Public-Private Projects Program would be applicable in Bangsamoro.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Potential Issue/s

Infrastructure investors and operators do not have an understanding of opportunities available to them for infrastructure projects in the Bangsamoro.

Cluster View

This may require further clarification. The Bangsamoro Development Agency is close to finalizing the Bangsamoro Development Plan (BDP) which, among other things, outlines the infrastructure requirements for the region. The BDP also presents a detailed budget that can already be submitted for funding either via the PPP modality or from donor organizations.

F. Power Sector

Under the BBL, In Bangsamoro Region

The Bangsamoro Government shall have the exclusive power to regulate power generation, transmission and distribution operating exclusively in Bangsamoro and not connected to the national grid. For those that are connected to the national transmission grid, the Central and Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Governments shall cooperate and coordinate through intergovernmental mechanism.⁵¹

Potential Issue/s

There is uncertainty on how Bangsamoro power projects that connect to the national grid will be handled. The BBL provides that such projects shall be coordinated by the Bangsamoro government with the intergovernmental mechanism, but the specifics of such mechanism are unclear.

Power generation is a highly technical function and is very crucial for business in Mindanao. As such, when crisis situations arise, the power operator will need to respond quickly. The Bangsamoro government in coordination with the national government will need to set up the proper intergovernmental mechanism and process to be able to respond quickly in times of crisis in the power sector. This exercise should be done in coordination with the Mindanao private sector as well.

Cluster View

This issue needs to be clarified. There will be a need to develop and disclose the parameters for which the Bangsamoro government will manage power projects that are connected to the national grid, in coordination with the Central Government.

⁵¹ Sec. 3 (15), Art. V, Draft BBL.

G. Transportation and Communication

Under the BBL, In Bangsamoro Region

The Bangsamoro Government, working with DOTC, CIA, CAB, MIA, PPA, LTFRB, LTO and NTC, shall determine the exercise of ADDITIONAL POWERS by the Bangsamoro Government in the areas of transportation and communication, and the issuance of rules and regulations to implement such additional powers.⁵²

Potential Issue/s

For the rest of the country, no additional specific powers are given to other local government units in the areas of transportation and communication.⁵³ The public may question as to why the Bangsamoro are being afforded this privilege.

Cluster View

This needs more clarification. **The Bangsamoro government will need to work closely with the above agencies to determine any additional powers, and the extent of check and balance mechanisms.**

⁵² Sec. 31, Art. XIII, Draft BBL.

⁵³ Local Government Code of 1991.

H. Power to take Over or Direct Operation of Business

Under the BBL, In Bangsamoro Region

Under the BBL, the Chief Minister of the Bangsamoro Government may order the temporary take over or direct operation of any privately-owned public utility or business affected with public interest in times of state of calamity.⁵⁴

Potential Issue/s

For the rest of the country, it is only the President who can order the temporary take-over or direct operations of public utilities and other businesses imbued with public interest and only in cases of national emergency, when public interest so requires.⁵⁵ This provision under the BBL creates some uncertainty for businesses as there is a risk they might get taken over by the Chief Minister.

Cluster View

This is an issue that should be clarified to provide the specific set of instances where a business can be taken over by the Chief Minister.

⁵⁴ Sec.4(c), Art. V, Draft BBL.

⁵⁵ Sec.17, Art. XII, 1987 Philippine Constitution.

I. Taxes

Under the BBL, In Bangsamoro Region

The Bangsamoro government, through the Bangsamoro Tax Office shall have the power to enact its own Tax Code, which could be different from the rest of the country.

Potential Issue/s

There is uncertainty from the business community on how their businesses will be taxed under this new tax regime.

Cluster View

This should not be a major issue. The major taxes in the Bangsamoro are the same as those of the national government (income tax, VAT, and excise taxes). The taxes that have been devolved to the authority of the Bangsamoro are minor in nature and will still require coordination with the Central Government. **Moreover, there is a possibility that the Bangsamoro may even consider lowering certain of their taxes relative to the rest of the country to promote and incentivize business and investment.**

J. Inland Waters

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Under the BBL, In Bangsamoro Region

The Bangsamoro government shall have exclusive powers over inland waters and may enact laws on the regulation, management and protection of the resources found therein.

Potential Issue/s

There is uncertainty as to how this will affect the power of the central government.

Cluster View

This requires further clarification to ensure that access to such water remains equitable.

K. Block Grant

Under the BBL, In Bangsamoro Region

To ensure that the Bangsamoro Government shall be able to discharge its functions and provide adequate services to its constituents, the Central Government shall have the obligation to provide an annual block grant to the Bangsamoro. This represents its share in the national internal revenue of the Philippine Government, which shall “in no case be less than the last

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

budget received by ARMM immediately before the establishment of the Bangsamoro Transition Authority.”⁵⁶ The formula of the Block Grant is “four per cent (4%) of the net national internal revenue collection of the Bureau of Internal Revenue less the internal revenue allotment of local government units.”⁵⁷

Potential Issue/s

The public could potentially interpret this as the Bangsamoro government receiving more than its fair share of the national internal revenue. Why is it being afforded to the Bangsamoro? And are these funds simply pork barrel funds?

Cluster View

This needs to be explained further. The amounts that the Bangsamoro government would be receiving and the formula used to arrive at that amount clearly show that there has been a lot of misinformation in the media and the congressional hearings. A closer examination of the figures show that the additional cost to the national government only amounts to about P10.5 billion as the rest of the block grant is already part of the existing annual appropriations to the ARMM.

⁵⁶ Sec. 15, Art. XII, Draft BBL.

⁵⁷ Sec. 16, Art. XII, Draft BBL.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Moreover, there is a huge funding gap in terms of financing as identified in the Bangsamoro Development Plan (BDP), which was developed by the Bangsamoro Development Agency (BDA) with the assistance of JICA and World Bank consultants. This Plan has a detailed breakdown of the Bangsamoro funding needs. Muslim Mindanao has been lagging behind in most, if not all, of the socioeconomic and development indicators (PHDR), and it needs to catch up with the rest of the country.

In terms of the disbursement of the block grant, the Bangsamoro government will comply with all the safeguards established by the Department of Budget and Management (DBM).

L. Auditing

Under the BBL, In Bangsamoro Region

The Bangsamoro auditing body shall have auditing responsibility over public funds utilized by the Bangsamoro, without prejudice to the power, authority and duty of the national Commission on Audit (COA). The Bangsamoro Government shall ensure transparency mechanisms consistent with open government practices.

Potential Issue/s

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Public perception is that the Bangsamoro will have its own audit commission independent of the COA. In reality, the Bangsamoro can and will be audited by the COA.

Cluster View

This is not a contentious issue, it is more a misinterpretation of the law. If any rewording is necessary to avoid any misinterpretation, the provision in the Comprehensive Agreement on the Bangsamoro may be considered. The Bangsamoro audit body will be subject to governance by the COA.

M. Peace and Order, Security

Under the BBL, In Bangsamoro Region

The peace and order situation in a given territory also affects the growth of businesses in said area. In the case of Bangsamoro, the security and maintenance of peace and order shall be the responsibility of the Bangsamoro Police which shall be part of the PNP but governed by a different law, to be enacted by the Bangsamoro Parliament.

Potential Issue/s

There is some uncertainty as to how the Bangsamoro Police will operate as part of the PNP but is subject to a different law from the rest of the country. Will this be a constraint on the Bangsamoro Police's effectiveness?

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Will the members of the Bangsamoro Islamic Armed Force (BIAF) be automatically integrated into the police force for the Bangsamoro?
What is the arrangement in terms of control and supervision of the Bangsamoro police force?

Cluster View

This is an important economic issue because the level of business activity in the Bangsamoro is linked to the security in the area. The bulk of the police force in the Bangsamoro will come from the existing body. The Bangsamoro Police Board will still be under the NAPOLCOM.

Certain LGUs may oppose the provision that the Chief Minister will be the head of the Police Board. However, the Cluster feels that it makes sense to put the position under the Chief Minister so as to provide the latter power over security and to curtail abuses of LGUs using the police.

It is clear that if there is a conflict in the decision between National PNP Chief and the Chief Minister, the decision of the PNP Chief will prevail.

From the private sector viewpoint, investment insurance schemes, such as those offered by the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group and ADB, can help address some of the security concerns of private investors. MIGA in particular is offering attractive schemes specifically for projects in the Bangsamoro, such as political risk insurance coverage at approximately 0.85% per annum of insured amount, covering 90% of the equity investment for certain projects. When

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

this political risk guarantee is combined with the Bangsamoro Fund Facility (BFF) of the World Bank and JICA that offers 80% project financing, investors in Bangsamoro can effectively manage the security risks of projects at relatively low costs.

Further recommendations on this issue will be provided by the Human Security Cluster of the Peace Council.

III. Key Learnings

There are a number of key learnings important to the business sector that the Economy Cluster arrived at from its review of the BBL and related resource materials, and from in-depth discussions within the group conveners and its resource persons. First and foremost, **the Economy Cluster concluded that there are no major or contentious issues relating to Article XIII of the BBL – Economy and Patrimony.** Most of the potential issues the group identified are only clarificatory in nature and can be addressed by providing more detailed information on the matter. The only contentious issue the group identified dealt primarily with peace and order / security in the Bangsamoro region, which is discussed further below, alongside the other key learnings.

- **Devolution is already happening.** A review of the draft of the BBL needs to include a review of existing national laws and government policies, for one to understand the level of devolution of national laws, particularly decision-making and implementation

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

authorities, to the local government level that is already occurring. One example is that departments such as the Department of the Environment and Natural Resources (DENR) have had certain authorities devolved to local governments, including the Autonomous Region for Muslim Mindanao (ARMM).

- **BBL provides an opportunity, not a problem.** The Peace dividend that the BBL offers can open up tremendous opportunities for investment in Mindanao in a whole range of sectors, which will in turn generate much needed jobs. With jobs, the youth will be less vulnerable to the siren call of violence and extremism. Moreover, the BBL can actually provide an opportunity to explore flexibilities allowed by the constitution and national laws in a smaller area of coverage that can then be replicated elsewhere if found to be successful.
- **Political autonomy cannot be achieved without fiscal autonomy.** In this respect, a robust private sector is seen as critical, particularly as the tax base within the Bangsamoro areas has been extremely narrow.
- **BDP is a critical step in strengthening the economy.** It is encouraging to note that the Bangsamoro Development Plan (BDP) is the product of 2 years of consultations and has been supported by government, development partners and stakeholders. The BDP focuses on ensuring that the dividends of

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

peace will reach the communities as well as establish the foundation for business and investment and revenue generation.

- **Jobs are key.** Equally important is the need to ensure employment creation and income generating opportunities for the millions of poor in the Bangsamoro who long for a decent livelihood and a peaceful existence. The success of the transition to an autonomous Bangsamoro will depend to a considerable extent on the ability of the authorities to attract private sector investment in new or expanded enterprises necessary to absorb the bulk of workers, and thus help lift families out of extreme poverty. To address the “chicken and egg” issue of Peace and Development and accelerate the pace of development, it was suggested that PEZA-like zones where progressive leadership exists and the requisite resources are made available to enhance the possibilities of success, can be considered.
- **Peace and order is the critical challenge.** The restoration of peace, law and order will facilitate private investment in business activities on the scale needed to ensure robust and sustainable growth in the Bangsamoro region. The security of personnel and assets will need to be assured.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

- **Physical infrastructure bottlenecks will be high on the development agenda.** Water, land, and air transport facilities in the Bangsamoro region need substantial improvement, with a more conscious effort to integrate them into a more seamless logistical network linking production to supplies and markets. This requires a multi-modal approach to transport systems. Power, telecommunications, and water supply are also inadequate, but whose provisions extend beyond geography.
- **Capacity building for the Bangsamoro is an urgent and immediate requirement.** Proper training is required for Bangsamoro leaders who will govern, Bangsamoro professionals who will run the civil service, and for the citizens of the region. It is estimated that over 600,000 adults in the Bangsamoro are illiterate and cannot be part of inclusive growth if they remain unemployable or unable to avail of productivity improvement programs due to lack of comprehension. Capacity building is part of the BDP. This lays the foundation for initiatives that the private sector can immediately offer - functional literacy, internships, and skills development among others.
- **We need more engagement between the Bangsamoro and the Philippine Business Community.** In terms of bringing more investment to Mindanao, the business community in Manila has to engage more with Bangsamoro leadership in the Bangsamoro as part of confidence-building.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

IV. Recommended Reference Materials

The following documents are recommended by the Cluster to further clarify various aspects of the BBL:

A. Presentation Files

1. Presentation on the Bangsamoro Development Plan by the Chairman of the Bangsamoro Development Agency
2. Several presentations from the Philippine Center for Islam and Democracy (PCID) - Freedom for Economic Freedom (FEF) Bangsamoro Forum in November 2013, covering a variety of topics, including the informal/shadow economy of Bangsamoro, the business and investment climate, Land Bank projects in the region, and the ARMM Business Council.

B. Frequently Asked Questions document on the Bangsamoro Development Plan, as provided at the Philippine Development Forum in Davao in October 2014, where the BDP was showcased.

C. Baseline Study files from the PCID-FEF Bangsamoro Forum which are working papers covering a diverse set of topics: ARMM

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

socioeconomic situation, business environment and regulations, land and property rights, banking and finance sector, investment climate, and natural resources.

- D. Summary document which summarizes the outcomes of the individual workshops of the PCID-FEF Bangsamoro Forum.
- E. Salient points of the Bangsamoro Basic Law
- F. Executive Summary of the Draft Bangsamoro Development Plan

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Report of Cluster on Social Justice and Human Development

Introduction

The Cluster started its analysis of the BBL by identifying the specific provisions of the BBL that are related to Social Justice and Human Development. This initial task proved daunting as the provisions were not contained in a single article in the proposed law but were scattered all over it. Rightly so, since the heart of the proposed bill is social justice.

After the provisions were laid out in a matrix, the Cluster then decided to divide the members into three major sub-clusters: Social Justice, Human Development, and Indigenous Peoples. It was pointed out, however, that the grouping is neither exclusive nor fixed as the concepts cut across each categorization and even beyond the scope of the Cluster's assigned task. Eventually, only two groups remained, since the Social Justice sub-cluster was later merged with the Human Development sub-cluster, as they are so closely intertwined, while the sub-cluster on Indigenous Peoples remained.

The matrix of Social Justice and Human Development provisions was used by the sub-clusters to discuss which provisions are deemed "problematic" based on prior consultations, frequently asked questions in the field, and discussions within the ranks of the participants.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

I. Framework

The Cluster on Social Justice and Human Development's mandate is to ensure that these two imperatives to attaining peace, social justice and human development, are given their proper due in the Bangsamoro Basic Law to correct the injustices of the past which formed the root cause of the armed rebellion.

After a careful study of the BBL Provisions in its totality, the Cluster concludes that the Draft BBL does fulfill this mandate of Social Justice and Human Development. The Cluster notes that the BBL is replete with provisions that lead to the conclusion that Social Justice is the framework of the BBL. For example, Article XIII on Economy and Patrimony begins with Section 1 entitled Bangsamoro Economy and Social Justice: "The Bangsamoro Government's economic policies and programs shall be based on the principle of social justice." In Article IV covering General Principles and Policies, it is asserted that Social Justice shall be promoted in all phases of development and facets of life within the Bangsamoro. Likewise, the concepts of Human Security and Human Development encompassing human rights and freedoms are well covered by the BBL. The Cluster, therefore, sees only the need for some refinement and fine-tuning of certain provisions which are enumerated in this Cluster Report.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

There are special concerns raised with regard to the Indigenous Peoples, the Katutubo of Muslim Mindanao. The Cluster invited tribal leaders representing Non-Moro Indigenous Peoples' communities in Muslim Mindanao affected by the BBL to join the Cluster deliberations on Indigenous Peoples rights and they are of one voice in wanting to ascertain that their rights under the Indigenous Peoples Rights Act (RA 8371) and other laws are reasserted, recognized, and protected under the BBL. The Cluster would like to support them in this regard. The Cluster, therefore, proposes a number of amendments to provisions in the BBL pertaining to Indigenous Peoples.

With the above premise, the Cluster on Social Justice and Human Development wholeheartedly endorse the BBL and recommend its passage, as an act of Social Justice and Reparation to the Bangsamoro peoples of Muslim Mindanao to rectify all the injustices inflicted upon them in the past. It is the Cluster's hope that the Bangsamoro will serve as a model for the rest of the country in fulfilling the 1987 Philippine Constitution's mandate to secure Social Justice to the Filipino people.

II. Recommendations

The Cluster presents the following recommended refinements of the BBL:

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

A. Definition of terms

The framers of the BBL were successful in crafting an instrument that is encompassing, forward looking, and flexible. **The readability of the law will be greatly improved however, if some terms, such as “Non-Moro Indigenous Peoples,” “*Fusaka Inged*,” among others, are defined.**

B. Focus on Social Justice

Indeed, the BBL is an instrument of Social Justice. This is manifested by the prevalence of Social Justice provisions in the entire proposed law. Realizing that Social Justice is a broad concept, a flagship statement similar to Section 1, Article XIII⁵⁸ of the Philippine Constitution may be incorporated to bring together the many provisions on Social Justice that could serve as guidepost in the interpretation of the law and future legislation of the Bangsamoro Parliament.

During the April 18 plenary discussion, it was further clarified that,

⁵⁸The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

although the group recognized the presence of an array of provisions on *social justice* in Article IX of the Bangsamoro Basic Law, they deemed it wanting in two aspects: (1) an articulated definition of *social justice*; and (2) a more comprehensive identification of sectors that deserve special attention. **The group, hence, recommended for (1) an additional article defining *social justice*, in accordance with the Philippine Constitution; and (2) an additional section dedicated to the poorest of the poor with regards to attaining social justice.**

C. Reserved seats

The BBL in Section 5(3) of Article VII⁵⁹ has provided a venue for genuine representation in the Bangsamoro Parliament by reserving seats for sectors on the margins that would otherwise not have the opportunity to be heard. While the Cluster sees this provision as a positive component of the BBL, **expanding the number of reserved seats is recommended.**

There is a clamor from the youth that they be specified as a sector with a reserved seat to participate in the decision-making

⁵⁹

Sectoral representatives, consisting of ten percent (10%) of the Members of Parliament including two (2) reserved seats each for non-Moro Indigenous Communities and settler communities, Women shall also have reserved seats.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

process as it has been of great concern that they have been potential recruits for violent extremism. This cluster supports this request.

For the women's sector, it was pointed out that one reserved seat may not be sufficient to represent the multifarious concerns pertaining to women and so there is a recommendation to increase the number of seats.

The representation of Indigenous Peoples in the parliament must also be increased considering that there are several major Non-Moro IP communities in the proposed Bangsamoro territories.

The manner of providing reserved seats would be understood as generally subject to the constitutional mandate that the members of the legislative assembly are elective (without necessarily requiring "direct" elections) and representative of constituent political units.

D. On Education

It is often said that history is a guide to the future. The so-called "Moro Problem" or the "Bangsamoro Question" is a product of their painful and unfortunate colonial past. As the Filipino nation moves forward healing the past and building the future, there is a need to educate ourselves, our communities and one another that

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

we are all victims of historical injustices. Understanding the History, Culture and Identity of the Bangsamoro People will bring Filipinos closer to common goals of a peaceful and progressive society as a nation. After all, Philippine society is a multi-cultural society, and education plays a significant role in the transitional justice program of the peace-building process.

Section 13 of Article IX⁶⁰ provides a very beautiful idea of what type of education must be adopted in the Bangsamoro. It was pointed out however, that the level of education in the region has been sub-par compared to the rest of the country. It was also pointed out that the prejudice and marginalization of the Bangsamoro people is perpetuated by the lack of proper education that showcases their distinct culture and identity.

Peace Education was also recommended to be an integral part of the provision for the purpose of promoting a Culture of Peace and Diversity in the Bangsamoro territories among all peoples in the region. The Cluster also feels that Bangsamoro history, culture, and identity should be included in the curricula of educational institutions in the Bangsamoro and throughout the country in order to eliminate any prejudice towards the Bangsamoro people.

⁶⁰

The Bangsamoro Government shall establish, maintain, and support, as a top priority, a complete and integrated system of quality education and adopt an education framework that is relevant, and responsive to the needs, ideals, and aspirations of the Bangsamoro.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

E. Rehabilitation

Article XIV of the BBL is a chapter entitled Rehabilitation and Development, this is a vital element towards the realization of human development.

To avoid the misconception that rehabilitation in the BBL is only for the MILF, the rehabilitation provisions should be viewed holistically as the victims of conflict in Mindanao also include other combatants and their families as well many others, particularly the poor. Rehabilitation should also be viewed not only in terms of compensation but as a means to heal the wounds of conflict inflicted on all aspects of the human dignity of those affected.

F. On Non-Moro Indigenous Peoples

This cluster would be remiss in its mandate to look into issues of social justice if it did not take special consideration of Non-Moro Indigenous Peoples in the proposed Bangsamoro territory. Non-Moro IPs have ancestral domain claims with an area of at least 309,720 hectares encompassing 84 barangays in 8 municipalities in Maguindanao.

Having reviewed its consultations, position papers, and focused group discussions with IP communities, the Cluster suggests that

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

a separate article be devoted to the recognition, protection, and promotion of Non-Moro Indigenous Peoples' rights such as are laid out in RA 8371 or the Indigenous People's Rights Act (IPRA), or other mechanisms that will perform these functions until more appropriate solutions can be created by the Bangsamoro Parliament.

The Cluster also recommends that a more comprehensive enumeration of Non-Moro Indigenous Peoples Rights be included in the BBL. Specifically, these include but are not limited to:

- Fundamental Human Rights and Development
- Identity and Self-Ascription
- Ancestral Domains and Lands⁶¹
- Self-Determination and Self-Governance⁶²
- Cultural Integrity⁶³

⁶¹Ownership and control over the use of resources; Equitable shares in revenues from use as determined by the affected Non-Moro Indigenous Peoples; Self-Delineation and recognition through Certificate of Ancestral Domain Titles and Certificate of Ancestral Land Titles.

⁶² Freedom of Choice; Free, Prior, Informed Consent; Right to Participate in the Bangsamoro Government; Reserved Seats

⁶³ Indigenous Customs and Traditions; Indigenous Justice Systems and Political Structures; Indigenous Education; Basic Services.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

While the specifics on how the rights of Non-Moro Indigenous Peoples shall be protected in the Bangsamoro may be beyond this Council's ability to resolve, the Cluster is united in affirming that the voices of Non-Moro Indigenous Peoples who may be affected by the BBL must be heard in the policy-making process.

IV. Conclusion

Upon various consultations and discussions, the Cluster on Social Justice and Human Development would like to emphasize and conclude that these provisions be given proper due with a context on the historical injustices committed to both the Bangsamoro and Non-Moro Indigenous Peoples. Ensuring the improvement of the Bangsamoro and Non-Moro Indigenous Peoples' socio-economic conditions will result to giving more hope that people in the communities can focus on ways to develop their socio-economic means through non-violent resolutions. This is necessary to provide a social order to respond to the injustices of the past that created the root cause of the armed rebellion.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Report of Cluster on Human Security

Introduction

The Cluster was formed to focus primarily on security issues in the BBL. The first meeting of the cluster was held on 13 April 2011 with 20 leaders from Manila and Mindanao-based NGOs, the academe, retired AFP and PNP officials, Constitution framers and former government officials. A second meeting was held on 15 April and focused on aspects of the BBL pertaining to the police, the AFP and the normalization process. The Cluster did not limit itself strictly to Article XI of the Bangsamoro Basic Law (BBL), which dealt primarily with Public Order and Safety. They also tackled issues with relevance to the overall peace process including current Congressional deliberations, plebiscite, and post-conflict proceedings. The report that follows details the significant issues raised and the explanations or suggestions offered by the cluster members, who were all in agreement that it was important to strengthen the BBL so that Congress passes it and thus move the peace process forward.

I. Framework: The Security Situation in Mindanao

The Cluster invited Francisco Lara of International Alert UK Philippines to present some of the findings based on data from their Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Conflict Monitoring System (BCMS), which is funded by the World Bank. It can be recalled that a report International Alert released in August 2014 entitled “Rebellion, Political Violence and Shadow Crimes in the Bangsamoro”⁶⁴, which contained some of these findings, was used by Senator Chiz Escudero as basis for his statement that the passage of the Bangsamoro Basic Law (BBL) could not ensure peace in Mindanao⁶⁵. Unfortunately, the report as presented to the public was taken out of context. After all, the BBL is not the only issue of peace in Mindanao. It is, however, an important one. Therefore while it is accurate to say that the BBL on its own does not a guarantee or provide the “magic bullet” of peace, it is a disservice to the entire peace process not to acknowledge it as one of the most important foundations for achieving peace.

Lara acknowledged that, as in all conflict areas in transition after a peace agreement is signed, things are more likely to get worse before they get better. He presented data showing the steady rise of violent incidents since 2011 involving those known as “peace spoilers”, particularly the Bangsamoro Islamic Freedom Fighters (BIFF). Lara also presented data

⁶⁴URL: <http://www.international-alert.org/resources/publications/rebellion-political-violence-and-shadow-crimes-bangsamoro> (accessed on 17 April 2015)

⁶⁵Avendaño, C.O. (2015, April 11). World Bank: BBL can’t ensure peace, new threat groups emerging. *The Philippine Daily Inquirer*. Retrieved from <http://newsinfo.inquirer.net/684764/world-bank-bbl-cant-ensure-peace-new-threat-groups-emerging> (accessed on 17 April 2015).

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

that showed that, while incidents involving the Moro Islamic Liberation Front (MILF) and the Philippine Armed Forces were decreasing, fighting between the MILF and the BIFF increased in areas surrounding Mamasapano, disproving claims that the MILF has been providing safe haven to the BIFF. Lara's presentation brings home this significant point: that the decommissioning of the MILF's Bangsamoro Islamic Armed Forces (BIAF) would improve peace and security in Mindanao as this would have a "knock-on" effect on other armed groups. As far as the GPH-MILF phasing for the decommissioning of MILF forces is concerned, passing the BBL is key to jumpstarting the process of normalization.

II. Issues Discussed

The issues discussed by the Cluster can be grouped into three (3) categories – (a) Trust as a main concern of the peace process, (b) issues with direct relevance to BBL provisions pertaining to Public Order and Safety (Article XI) as well as to the Normalization process, and (c) addressing the broader issues of peace. The following briefly outlines the issues and the cluster's views on how these can be addressed.

A. The General Framework: An Issue of Trust

The Mamasapano incident of 25 January 2015 halted congressional deliberation on the BBL's substantive issues. The general perception of the MILF's culpability created a lack of trust against the MILF in particular, and autonomy in general. This lack of trust could not be assuaged by

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

facts that later emerged that put in question the initial assumptions about what occurred and who was to blame. The grief the incident produced and the outcry against Mamasapano was thought to be satisfied by prosecution and surrender of alleged guilty parties before continuing deliberations on the BBL. In short, resolving Mamasapano became a condition of peace.

Unfortunately, regaining trust in the peace process – and this is applicable to both sides of the table – cannot be fully accomplished by the quick resolution of one incident, or at least any time while the peace agreement remains viable. By its nature, parties to a conflict come from a place of mistrust, but any conflict resolution comes from a place of hope. To conclude a peace agreement requires a suspension of this mistrust long enough to give both sides a chance to make peace work. The real work of peace comes after the agreement, not before. Concluding peace agreements does not conclude the peace; peace agreements mark the beginning of peace.

Therefore, the best way to re-establish trust is to pursue the peace process and the BBL.

Proceeding with the BBL does not have to mean that Mamasapano should be forgotten or set aside. After all, Mamasapano revealed fundamental gaps and raised important questions about how peace and security are managed by government, including the coordination of the AFP and PNP, which must be addressed.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

But peace and justice need not be exclusive. Questions about Mamasapano, and indeed all the atrocities and injustices that occurred during this decades-long conflict – from all sides - must be answered, but not by ordinary penal laws of peacetime. A criminal code is not made to withstand the complex questions that arise from the extraordinary circumstance of armed conflict, much less an extended one that brings about long-standing grievances and inter-generational prejudice. A peace agreement must first be established so that the parties can be brought into a common legal regime that can sufficiently address the needs of justice. Once the BBL is passed, these important questions can be brought under a civic or even legal regime established within the BBL, or outside of it through other related institutions or recommendations that support it.

The framework of this Cluster on Peace and Human Security was therefore to address the broad issue of a deeper and continuing trust built on the foundation of the BBL and other peace agreements.

1. The fear of secession

Some sectors have raised the fear that the BBL contains no commitment or assurance that the MILF or the Bangsamoro government will not secede from the republic in the future.

On the contrary, by engaging in a peace process, it will become difficult for the MILF to gain international recognition, a necessary requirement to

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

gain full sovereignty, if they attempt to secede. Rather than facilitating secession, the participation of nation-states and other international actors and entities in the peace process make them witness to the fact that secession is outside the intent or scope of the BBL, and that the Constitution prevails in all matters. Moreover, by signing agreements with the government, the MILF has bound itself to the process. The reason the peace process could proceed in the first place is because the MILF had already given up their claim for secession. From its original call for an independent Islamic state, the MILF has indeed made a lot of compromises in negotiating for greater autonomy instead.

As for expressly providing against secessionism, this is not something that would be legally binding or effective. After all, those who would claim secession are those who inherently refuse to recognize the power of government over them and therefore outside of the reach of the BBL. Any illegal acts that may stem from the demand to secede can be dealt with by the Constitution, *i.e.*, where state creation is prohibited. **The best protection against secessionism is the passage of the BBL and its effective implementation to provide a national environment that allows Muslim Mindanao to develop as part of a diverse Philippines. There would be no reason to secede.**

2. Protection against radicalism

The ISIL/ISIS phenomenon and their ability to effectively package and communicate their brand of jihad have attracted the interest of many

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

young Muslims even in the Philippines. Failure in the GPH-MILF peace process will cast a cloud of hopelessness and frustration on the fate of Muslim Mindanao, which, particularly when accompanied with poverty and marginalization, are the catalysts of radicalism. Even within the ranks of the MILF there exists a struggle between the moderates and the radicals. The current leadership negotiating with the Philippine Government are the moderates. If their negotiations fail, it provides proof that the moderates and those that choose diplomacy are powerless and ineffective and may ultimately be sidelined in favor of the radicals.

The other potential problem is the magnet that Muslim insurgency will provide for jihadists abroad. The Philippines is the only hotspot of unrest left in the region. Allowing this unrest and insecurity to continue would make the region a natural destination for radicals. In fact, not potential, but already an actual problem: Marwan was Malaysian. How difficult would it be for jihadists to join and merge with Muslim students in the Philippines from South Asia, the Middle East, and Africa?

The threat of war does not mean that the Philippine government is negotiating from a position of weakness. If anything it is both parties that negotiate against the threat of further violence, poverty and unrest. It bears repeating that the issue of peace is also social justice issue to provide security and to best equalize the opportunities of our poorest citizens. In the area of peace and armed conflict, the primary consideration of any government use of force is always the protection of civilians. The burden of proof when there are ANY civilian casualties is on

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

the government. The hundreds of thousands of citizens killed and displaced in Mindanao over the years is our country's tragic failure in this regard. As far what has been sacrificed as a price of peace, the Government does not give up anything and grants that which has already been promised.

As regards inserting specific provisions against extremism and radicalism, this is an area that falls too closely against the basic rights of freedom and speech and religion that may run afoul of the Constitution. In ordinary terms, the word "extremism" means holding extreme political views, an "extremist" is one who resorts to or advocates extreme action, while "radicalism" similarly means the advocacy of thorough or complete social reform. On their own they fall within protected speech. What is extreme or radical changes with time, and how they are defined is politically and religiously charged. Creating peace and human development in the Bangsamoro, along with the Constitutional provisions mandating a separation of church and state and the equal protection of laws and other bills of rights are the best protection against the allure and establishment of an ISIL/ISIS.

3. On the relationship between the MILF and the MNLF

It was pointed out that the Mindanao peace process did not start and end with the MILF and that it was important to acknowledge the efforts of the MNLF and their agreements. For purposes of more inclusive peace, it

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

seemed important to communicate the continuity between the two peace processes, exhibited by the fact that some provisions in the BBL were lifted from the existing Organic Act of the ARMM, which in turn was a product of the GPH-MNLF peace process.

It may be recalled that MILF Peace Panel Chairman Iqbal himself acknowledged during the talks in Kuala Lumpur that their negotiations were built on the gains of their MNLF brothers. Acknowledging this might serve to appease some elements and leaders of the MNLF who feel that their own 1996 Peace Agreement has been cast aside in favor of the 2014 Comprehensive Agreement on the Bangsamoro (CAB).

BBL Provisions on Public Order and Safety, and Normalization

1. The Relationship Between the AFP and the Bangsamoro

Article XI, Section 17. Coordination: A concern was raised that this entire section limits the ability of the AFP to respond and provide defense and security in the Bangsamoro if and when needed.

The idea behind Section 17 is, however, enshrined in a principle the GPH and the MILF agreed to in the Framework Agreement on the Bangsamoro (FAB), which states that the internal peace and security within the Bangsamoro would primarily be the responsibility of the Bangsamoro

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

police. This is actually in line with the thrust of the existing Internal Peace and Security Plan (IPSP), which seeks to transfer internal security to the Police. Moreover, if the normalization goes well, the MILF would have ceased to become a threat.

Since the Bangsamoro Police is under the PNP, this provision should not be read as creating a relationship between the Bangsamoro Police and the AFP that is different from the relationship between the PNP and AFP, or that is very much different from peace and security coordination protocols currently in place.

The cluster went further to suggest that the phrase underlined below may be added to the existing provision in Section 17: “...shall govern the movement of the AFP in the Bangsamoro in such a way that the capability of the AFP to accomplish its duty and mission is not impaired.”

A recommendation that provides more fundamental clarity to the relationship between the Bangsamoro Police and the AFP is to resolve the gaps in the current relationship between the PNP and AFP, particularly on the use of force, and providing a real distinction between a civilian police, and an armed force.

2. On the creation of a Bangsamoro Command of the AFP

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

This part of Section 15 has been misunderstood by the public as the creation by the Bangsamoro government of its own army. It is important to communicate and clarify to the public that the Bangsamoro Command, if and when it is created by the Central Government (not by the Bangsamoro government) will still be under the AFP Chief of Staff and is similar to existing Commands in Mindanao such as the Western Mindanao Command (WesMinCom).

3. Bangsamoro Police

On Section 2. Bangsamoro Police: Though the text in this section explicitly states that the Bangsamoro Police would be part of the Philippine National Police, this has not stopped fears and speculations about the police turning into their own army or more recently about the possibility of those involved in the Mamasapano incident becoming part of the Bangsamoro police in the future. This clarification responds to the calls made in the Senate that the provisions pertaining to the creation of the Bangsamoro Police as something the Senate would strike out from the BBL.

The creation of the Bangsamoro Police does not make it distinct from the existing PNP but is rather a form of rebranding that is actually in consonance with current reform measures within the PNP, which seeks to clean up its ranks.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

To clarify any such doubts of supervision, the cluster suggested the possible addition of a clause after the last sentence of the first paragraph, which will read thus: “...It shall be part of the Philippine National Police, in accordance with Chapter III of the DILG Act of 1990, RA 6975 as amended.” This additional clause could provide guidance to the Bangsamoro Parliament when it legislates the Bangsamoro Police Act, as provided in **Section 12 of Article XI of the BBL**.

Fears that the existing PNP in the ARMM will be displaced once the Bangsamoro Police is created can be laid to rest by simply specifying in **Section 13 – Transitional Arrangements** that they will play a part during the transition as they will still make up the bulk of the Bangsamoro police. Furthermore, the cluster was of the opinion that PNP national support services and the Bangsamoro Police should be allowed to coordinate directly, without the need for the intergovernmental relations body to outline protocols of coordination (as stated in **Section 14**) as they essentially belong to one PNP.

To reiterate, it may be a more fruitful exercise to examine the extent to which the PNP in some circumstances acts in a way closer to a military force than a civilian police, in which case proper adjustments to command and jurisdiction can be made. This is a matter of examination outside the BBL, and includes reviewing the extent to which a commando force in the PNP is consistent with the Constitutional establishment of a “civilian” police. This may substantially answer many of the questions currently being asked

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

about the extent by which the Bangsamoro police can act as an armed force.

4. On Normalization and Decommissioning of MILF arms and combatants

There was concern expressed over the lack of a clear and specific timeframe for decommissioning. Members of the cluster explained that the phasing of decommissioning has been tied to milestones in the implementation of the peace agreement as the MILF learned from the lapses in the implementation of the MNLF's agreement. The MILF, therefore, will undertake gradual decommissioning depending on what aspect of the political deal has been delivered. For example, 35% of their forces and arms will be decommissioned upon the creation of the Bangsamoro Transition Authority (BTA). But the creation of the BTA will require the passing of the BBL. Retiring a huge chunk of arms and combatants in Mindanao, therefore, is tied to the fate of the BBL.

Furthermore, insisting on a fixed timetable for MILF surrender of their arms fails to recognize the threats to the MILF posed, not by the government, but by potential spoilers and other armed groups identified by International Alert in the Bangsamoro area. The key message here is that if we want to get rid of the BIAF and avoid another Mamasapano incident, we need to see to it that the BBL is passed.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

B. Beyond the BBL: A Continuing Peace

As earlier mentioned, the Mamasapano incident revealed latent prejudices on both sides of the relationship between the Christian majority and Muslim minority. Even the discussions between both and indigenous peoples reveal how much more we need to learn about the other IP minorities who have suffered quietly and deserve as much attention and understanding. While these prejudices may be unhelpful when it comes to questions of legalities and exercise of general rights, they are helpful in two ways: 1) To understand where more affirmative action may be needed to equalize the needs of minorities; and 2) it informs on the extent to which our national psyche is disjointed beyond just our geography or even language, but more fundamentally by the shallow understanding of our diverse culture and heritage. Both must be addressed consciously and actively if we mean to develop as a whole nation.

1. On bigotry against Muslims

The public uproar against the BBL and over Mamasapano has re-surfaced deep-seated biases against Muslims. Prejudice against Muslims is not just a consensual observation, or an anecdotal phenomenon, but one with some objective data.⁶⁶ The lack of information about Mindanao, its history and its peoples compounds the problem. This needs to be addressed through immediate Information, Education and Communication (IEC)

⁶⁶Human Development Report of 2005.

campaigns by various sectors while the BBL is being deliberated in Congress as well as through long-term strategies involving the formal education system.

2. Addressing Mamasapano

There are at present four studies on the Mamasapano incident: 1) Board of Inquiry; 2) Senate; 3) MILF; and 4) the International Monitoring Team. Each comes to very different conclusions about who is liable, and the extent of that liability, and makes very different recommendations, and most tellingly – apply different local and international laws with varying degrees of relevance. In fact, only the IMT refers to the Republic Act 9851 which has localized our international obligations on international and internal armed conflicts.

Since Mamasapano revealed fundamental gaps in our security policies and measures, addressing Mamasapano in a comprehensive way would also help solve these problems and fill these loopholes that exist in all aspects of security, including coordination between the AFP and PNP, unifying the inconsistent policies and priorities on terrorism and insurgencies.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Rather than putting stop-gap measures within the BBL on chain of command or supervision of the PNP and AFP that affects the country and not just Muslim Mindanao, scrutiny of the relationships and failings of Mamasapano will highlight these gaps in our overall peace and security strategies. This will provide more informed, relevant, and long-standing recommendations. This would involve a more independent and representative body that can study these issues.

3. Transitional Justice: A Comprehensive Solution on Peace and Security

The BBL currently refers to the creation of a Transitional Justice mechanism that addresses the “legitimate grievances of the Bangsamoro people, such as historical injustices, human rights violations, marginalization through unjust dispossession of their territorial and proprietary rights and customary land tenure.” The current Transitional Justice and Reconciliation Commission has already begun addressing some of these issues.

It is believed that the scope of this Transitional Justice mechanism is limited. As Mamasapano shows, the grievances arising from the Mindanao conflict are of “mutual injustices” not by the Bangsamoro people alone, but other IPs, as well as the general citizenry. As discussed by Cardinal Orlando Quevedo during the April 18 plenary discussion, these grievances stem from the historical and traditional injustices towards not only the Muslims but other indigenous peoples and minorities, to loss of life and displacements that reemerged in the conflict’s recent history of the

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

1970s that again include offenses committed by all sides, these must all be part of a more “inclusive transitional justice” within the BBL.

Transitional Justice Mechanisms do not just cover Truth Commissions and amnesty. It is a branch of study that is uncommon in local legal systems (which are laws of peace), but established in conflict studies. They are broad mechanisms and encompass matters of justice that include prosecution but also go beyond this when there is a need to avoid the tendency towards victor’s justice or assigning blame. Some Transitional Justice mechanisms include:

- a. Prosecutorial investigations to study current issues like Mamasapano to determine how best to address them, i.e., studying the applicability of RA 9851, creating the special courts mandated therein, creating other kinds of courts such as hybrid courts or partly-international arrangements to help ensure impartiality, or exploring the viability of amnesty, amnesty in exchange for truth, or similar alternatives. These can also act as pre-prosecution procedures
- b. Truth Commissions – Truth Commissions are flexible arrangements that can go beyond prosecutorial investigations or fact-finding bodies. They are meant to find a way to lock in history – to tell an important story from varying perspectives. This can be used together with or separate from the prosecutorial aspect, to find and consolidate perspectives of history and grievances, and find facts to overtake anecdote,

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

to address the deep seated prejudice and long standing grievances arising from several massacres, deaths, and destruction accomplished by both sides. The healing is not just for the Bangsamoro/MILF/MNLF and the – healing must be for the whole nation, the citizenry, especially the Indigenous Peoples, and the government, particularly the military.

- c. Memorials – a country with the strong identity has a citizenry with a common historical narrative. Memorials, apologies, acknowledgments, are ways of making the public remember this common story from which the country can move on together.
- d. Continuing mandatory public education on the histories of Islam, Indigenous Peoples and other minorities, that addresses the prejudice, cultural misunderstanding, and stereotyping of Muslims and other Indigenous Peoples, in a way that **focuses on Conflict Transformation, Conflict Prevention, and building a Culture of Peace.**

The creation of stronger Transitional Justice mechanisms may give an opportunity to ensure that full measure is given to address grievances beyond Mamasapano, and beyond land disputes, with impartiality and sensitivity. This mechanism may be within the BBL itself, i.e. to expand the TJRC, or else to create a separate body. In either case, to have a body that is given enough time to understand all the issues that include

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

International Humanitarian Law, Penal Law, the Laws of War, and Terrorism.

Transitional Justice is conflict prevention. The Philippines must now make its own narrative – as complete as possible. Although likely to be imperfect, it is important that it is a shared narrative. Most of us who have been so far removed from this conflict that has affected generations of our fellow Filipinos, are as likely to repeat the failures of peace as our predecessors if we continue to be ignorant of them. The Philippines needs a shared history, and a meaningful transition may be a chance for our country to begin one. **The ultimate purpose of transitional justice is not only to move from conflict to peace without incident, to assign blame or to administer punishment. The purpose is to heal from it by never repeating the tragedy, horror, deprivation and destitution of conflict. To borrow a famous battle cry against oppression: “Nunca Mas” or “Never Again”.⁶⁷ It is time the Philippine creates its own battle cry for peace.**

⁶⁷ Highly publicized and widely distributed Argentinian investigative report on forced disappearance of persons and other human rights violations of the military dictatorship that established a firm transition society.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Final Word

In the plenary meeting on April 18th and in the separate meetings of the clusters, the issue of Social Justice and Human Development took a very prominent role in the discussions. It came out as a common concern. Indeed, it was a unifying theme for the four clusters.

As the country eagerly awaits the actions of the policy makers on this important legislation, it must be emphasized that the BBL is not just about the grant of autonomy. It should not be seen as merely a matter of division of powers, resources and responsibilities, between a national government and an autonomous region. The BBL should be understood for what it really is, an instrument to pursue social justice and development, for the constituents of the autonomous region, for the entire Mindanao, and for the country in general.

The 2005 Philippine Human Development Report entitled ‘Peace, Human Security and Human Development’ discusses human development in all its dimensions:

Development is about people and about freedom – from fear, from want, from humiliation and prejudice. It is about the security of real people and not of a state or a regime. It goes beyond the material benefits of an end to armed conflict, and care must be taken not to reduce it to a question of money or of economics. Nor can we delimit the Muslim situation as a “Mindanao issue” because it is a human development issue that touches all Filipinos.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

It's also about the non-monetary cost of displacement, diaspora and discrimination that lead to a breakdown in the social cohesion of communities, and ultimately of national solidarity. Rather than hardship alone, the sense of deprivation, injustice and indignity lie at the heart of armed conflict. Often, not even the most abject conditions by themselves cause grievances, much less revolutions. The revolutionary argument is that deprivation and indignity can be relieved, injustice remedied and national cohesion achieved only by pursuing resolutely some promised alternative. People must perceive and be convinced that something "higher" and "better" than their present condition is possible.

As can be seen from the discussion of the cluster reports, Social Justice and Human Development constitute an indispensable component of the review of the BBL. In fact, there was consensus that there are larger governance and justice issues not only in the autonomous region or in Mindanao, but in the entire country, that should be addressed beyond the BBL.

The BBL is a path to peace. Doubtless, it will not solve all the problems of the country or of the autonomous region. But it is a foundational element, a necessary first step, without which many worthy initiatives cannot even be tried. There is no guarantee of success, as no constitution or law or government can make such a guarantee. But it is a momentous opening

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

for opportunities for a new beginning, to correct the mistakes of the past, to craft a better future.

We have all lost so much in waging war against each other for so long, now is the time for the country to try to win by being united in pursuing peace.

Paving the path for peace

The Peace Council Report on the Bangsamoro Basic Law

Paving the path for peace

The Peace Council Report
on the Bangsamoro Basic Law

Published by the Alternative Law Groups, Inc.
in partnership with Oxfam

May 2015



The publication of this material was undertaken with support from Oxfam. The interpretations and conclusions in this material do not reflect the views or position of Oxfam. Dissemination of this material is encouraged, with appropriate credit given to the publisher.



The Alternative Law Groups
is a coalition of 23 legal resource NGOs
that adhere to the principles and values
of alternative or developmental law.

Rm. 216 Institute of Social Order
Social Development Complex
Ateneo de Manila University
Loyola Heights, Quezon City
Philippines

Phone : (632) 426 6001 loc 4865

Fax : (632) 426 8569

Email : secretariat@alternativelawgroups.org

www.alternativelawgroups.org