

SELF-DETERMINATION AND PEACE IN MINDANAO

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Introduction

Several conflicts today are taking place within and across states. The roots of many of these intra-state conflicts can be traced to the denial of state authorities of their citizens' assertion that they have a right to self-determination.

This paper supports the thesis that recognition of the fundamental right to self-determination can be an opportunity to resolve conflicts, whether or not they are explicitly stated as a struggle for self-determination. This is particularly true in Mindanao, where the Bangsamoro liberation fronts assert sovereign rights in the same territory over which the Philippine government already exercises sovereign power. Implementing the right of self-determination in Mindanao will open an opportunity for peace.

Self-determination as a Right

The right to self-determination is the right of peoples everywhere to freely determine their political status, and to freely pursue their economic, social and cultural development. The right to self-determination has political, economic, social and cultural aspects. For this right to be fully effective, the realization of the political, economic, social and cultural sovereignty of peoples is crucial.

Self-determination is a continuing process where people continue to make choices to achieve human security and to fulfill human needs.

The right of peoples to self-determination is enshrined in many United Nations instruments, among which are:

- Article 55 of the United Nations charter, which provides that the world body shall create “conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples . . .”
- Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and repeated in Article 1 of the International Covenant on Civil and Political Rights (ICCPR), which makes this statement: “All peoples have the right

- of self-determination, including the right to determine their political status and freely pursue their economic, social and cultural development.”
- General Assembly resolution 1514 (XV) of 14 December 1960, which states that, “All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

Territorial Integrity of States

The U.N. instruments guarantee the right of peoples to self-determination. On the other hand, there are U.N. instruments that uphold the principle of territorial sanctity of existing states. Article 2 (4) of the U.N. charter provides, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state . . .” Unmistakably, this provision applies only as between states.

Peoples who claim right to self-determination are living within the boundary of existing states. Whether these peoples are prohibited to disrupt the territorial integrity of a country is not clear in various U.N. Resolutions. U.N. General Assembly Resolution No. 2625 (Declaration of Principles Concerning Friendly Relations Among States) advised that right of self-determination shall not be construed as

“authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples ... and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”

The above U.N. Resolution reiterated the territorial integrity of states but this is made contingent on the government being representative of the whole people and non-discriminatory.

This is problematic because the assertion of minorities to self-determination is usually not only a claim to determine the political status of a people but also includes a claim to territory. If minorities are defined as people and they decided to form their own states, this will result to dismemberment of existing states.

The fear among states that their boundaries will be reconfigured once right of self-determination is granted to minorities arises from the zero sum approach to the issue of self-determination. To allay the fear, there should be an alternative way of looking at the issue. In between independence and assimilation is wide range of power sharing arrangement that central government and minority groups can explore through dialogue and negotiations.

Holders of the Right of Self-determination

According to the Report of the International Conference of Experts organized by UNESCO on November 21-27, 1998, the holder of the right of self-determination are a people (a group of individual human beings) who have some or all of the following common features: (1) common historical tradition; (2) racial or ethnic identity; (3) cultural homogeneity; (4) linguistic unity; (5) religious or ideological affinity; (6) territorial connection; and (7) common economic life.

Additionally, the UNESCO experts stated that “the group as a whole must have the will to be identified as a people or the consciousness of being a people.” The people, according to the experts, must be of a certain number, which need not be large but must be more than “a mere association of individuals within a state.” The existence of “institutions or other means of expressing its common characteristics and will for identity” is also important.

Determination of Political Status

The core issue in the right to self-determination is political status. How is the political status of a people determined? The international community traditionally resorts to referendum or plebiscites to determine the wishes of a people in disputed areas. However, there is a worry that a referendum may turn into an all-out, winner-take-all contest if the choice is limited to answering “yes” or “no” to one proposition. This may be averted if the range of choice is wider to include all possible political arrangements, such as independence, autonomy, free association, consociationalism and other power sharing arrangements.

The UNESCO experts are of the opinion that a people should be able to achieve self-determination through a fully participatory and democratic process. The experts said: “Self-determination is achieved by fully participatory democratic processes among the people who are seeking the realization of self-determination, including referenda where appropriate.”

In order for a referendum to be participatory and democratic process, it is useful to be preceded by lengthy political debate and dialogue within the given communities to ensure that citizens are aware of what the options are, are fully informed about their implications, and are as ready as possible to vote in a referendum. In Southern Sudan, the referendum will take place after the interim period of six years. The referendum on Bougainville’s future political status will be held not earlier than ten years but not later than fifteen years after the signing of the agreement.

Bangsamoro Right to Self-determination

The Bangsamoro people have the right to self-determination. They qualify as people who hold the right to self-determination, because they have a common historical

tradition and religious affinity and share many cultural practices. They occupy contiguous territory (maritime societies are connected by the sea) with rich natural resources.

Before the arrival of the Spanish colonialists, the Bangsamoro were already in the process of state formation, while Luzon and the Visayas were still in the *barangay* stage of political development. The Bangsamoro had their own government and trade and diplomatic relations with other societies. They had developed well-organized administrative and political systems; and strong maritime and infantry forces that defended the Bangsamoro territories from Western colonial intrusion, preserving the continuity of their independence.

During the American occupation the Bangsamoro homeland was administered separately from the Philippines. When the U.S. later decided to grant independence to the Philippines, Bangsamoro leaders asked Washington not to include the Bangsamoro territories in the would-be Philippine Republic. Even when their territories were made part of the Philippines in 1946, the Bangsamoro people continued to assert their right to independence.

The Bangsamoro are still asserting their right to self-determination under Philippine sovereignty. The liberation movement, which started peacefully but later evolved into an armed struggle, sees the incorporation of the Bangsamoro homeland into Philippine territory without the Bangsamoro's plebiscitary consent as violation of their basic human right to be free to determine their political status. The realization of their collective right to freely determine their political status vis-à-vis the Republic of the Philippines has been, and will continue to be, a goad to the Bangsamoro people to struggle for self-determination.

Positions of Bangsamoro Groups

The different Bangsamoro political groups share a common position: that the Bangsamoro people possess the right of self-determination and that this right has to be brought to fruition. With this end in view, the Mindanao Independence Movement was launched on May 1, 1968.

In the beginning, the stand of the Moro National Liberation Front was for Bangsamoro independence, but it scaled down its position to autonomy when the Organization of Islamic Conference (OIC) made clear that it could support only autonomy within the territorial integrity and sovereignty of the Philippines.

The MNLF concept of autonomy would give the Bangsamoro people freedom to adopt their own system of education and governance (administrative, legislative and judicial), and control over regional security and economic resources. What were left to the competence of the Philippine government were foreign policy and national defense. The Philippine government agreed in principle to set-up an autonomous government for the Bangsamoro but the powers it was willing to devolve are limited.

The Moro Islamic Liberation Front (MILF) says that it is open to all options, including independence and other alternative power sharing arrangements, but it categorically rejected autonomy, which it describes as a tired concept. The MILF position is centered on the recognition of the birthright of the Bangsamoro people to identify themselves as Bangsamoro and their historic right over their homeland. It is open to discussion on the delimitation of the Bangsamoro homeland. The MILF also wanted the right to occupy, possess, conserve and exploit the natural resources found in their homeland.

The MILF wishes for self-governance for the Bangsamoro people. During an interim period of five years the MILF proposes the transfer of power of governance from the central government to a Bangsamoro juridical entity (BJE), after which a referendum will be conducted to determine the Bangsamoro political status. The powers the MILF wanted to be transferred to the BJE include executive, legislative and judicial powers and functions; power to generate and allocate revenues; power to organize police and internal security force; and establishment of constitutional commission to write the organic charter of the BJE. The government is open on these proposals and the details are the subjects of discussions in the on-going negotiations.

The unarmed Bangsamoro people movements are calling for a referendum in which the Bangsamoro people can collectively decide their political status: whether to be free and independent, to maintain the status quo of political relationship, to have a federal arrangement, to have free association relationship, or any other power sharing arrangement. At the forefront of this advocacy is the Bangsamoro People's Consultative Assembly (BPCA). The Sultanate of Maguindanao is in the same frame of mind. The Mindanao People's Peace Movement (MPPM), which claims as members Bangsamoro, Christian settlers and Indigenous People, is also campaigning for a referendum managed and supervised by the United Nations. The Bangsamoro Women Assembly, during its gathering in Marawi City, has called for a referendum as well. The BPCA and MPPM shared the position that the referendum shall be held not earlier than five years but not more than ten years after decision is made to give enough time for people to understand the pros and the cons of every proposition, and to provide the Philippine government time to demonstrate to the Bangsamoro people that they will be in better condition if they remain part of the Philippines.

GRP Position

The Government of the Republic of the Philippines (GRP) recognizes the Bangsamoro's right to self-determination. This is made clear in the Tripoli Agreement of Peace of 2001 that it signed with the MILF. It states that "the observance of international humanitarian law and respect for internationally recognized human rights instruments and the protection of evacuees and displaced persons in the conduct of their relations reinforce the Bangsamoro people's fundamental right to determine their own future and political status."

Secretary Silvestre C. Afable, Jr., Chairman of the Government Peace Negotiating Panel in the talks with the MILF, in a letter dated November 9, 2006 to Mohagher Iqbal, Chairman of the MILF Peace Negotiating Panel, said that the GRP would like to explore with the MILF in the next round of talks, “the grant of self-determination and self-rule to the Bangsamoro people based on an Organic Charter to be drafted by representatives of the Bangsamoro people.” The Bangsamoro people shall decide on their political status in a referendum to be held after certain period.

There is no elaboration on the government position. So far, on the side of the government only Secretary Afable is talking on the issue of Bangsamoro self-determination. In May 2007 in Tokyo, he again reiterated the Philippine government position: “On the negotiating table, we have offered a political settlement based on self-determination that strives to unify the Bangsamoro people rather than divide them, for them to finally live in a homeland rather than a rented territory paid for in blood and suffering. We are crossing bridges of understanding that others have never ventured to do in the past.” (Quoted in Abinales 2007)

Responses to Self-determination

Invoking their right to protect the inviolability of their territory, a number of states militarily confronted struggles of peoples for self-determination. This has led to peoples and states armed conflict. Consequently, “in the 1990s almost all major conflicts around the world have taken place *within* states.” Harris and Reilly (2003) observed that “Between 1989 and 1996 . . . , 95 of the 101 armed conflicts identified around the world were such internal conflicts. Most of these conflicts were propelled, at least in part, by quests for self-determination”

In some instances, only after the conflicts had caused tremendous human sufferings and destructions that states think about according peoples of their right to self-determination. In East Timor, it was only after more than 200,000 lives were lost that the Indonesian government acceded to hold popular consultation to determine East Timor political status.

The people of Southern Sudan experienced tremendous sufferings as the result of the conflict, which started in 1955, before the central government of Sudan allowed them to exercise their right to self-determination through a referendum after the six years interim period. Similarly, the less than 200,000 people of the Province of Bougainville lost more than 10,000 life and displacement of more than 70,000 before the government of Papua New Guinea acquiesced to resolve the conflict and agreed to a referendum to determine Bougainville’s political status.

Other countries used dialogue and negotiations with their minority populations to confront the issue of self-determination. Canada, for example, used negotiations to respond to the Inuit land claims and their demand for self-government. Number of states has gone through a lengthy period of discussion with minority groups resulting to various power-sharing agreements, like autonomy, federalism and free association.

Opportunity for Peace

Allowing people to enjoy the right to self-determination does not automatically result in the separation of the claimed territory from the parent state, as feared by those who put a high value on the sanctity of borders, although this may be one of the possible consequences. Referendum on Puerto Rico's political status was held in 1967 but 60% of the voters preferred continued commonwealth status. Leaders of the province of Nivis wanted to separate from the federation of St. Kitts and Nivis but the citizens of the province voted to stay with the federation. Although not binding, the two referenda in Quebec illustrated that referendum does not inevitably translate to separation. On the contrary, denying a people the opportunity to exercise this right, or failing to make available the mechanism to exercise the right to self-determination, will encourage armed conflict.

Since undeniably the Mindanao problem is rooted in the Bangsamoro aspiration for self-determination, the implementation of this fundamental right of peoples to determine their political status will certainly be an opportunity to resolve the long-drawn conflict. As signatory to United Nations instruments on right to self-determination, the Philippines has the obligation to uphold, respect and promote this right. Constitutional and institutional barriers cannot be made the excuse to deny the Bangsamoro people this right. Sudan has amended its constitution to give way to a referendum in the South, and Papua New Guinea has promised "to move amendments to the National Constitution to guarantee a referendum on Bougainville's future political status" when it signed the Bougainville Peace Agreement in 2001.

This author shares the opinion of the UNESCO experts that "the peaceful implementation of the right to self-determination in its broad sense is a key contribution to the prevention and resolution of conflicts, especially those which involve contending interests of existing states and peoples, including indigenous peoples, and minority communities."

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