THE ORGANIC LAW: TOWARDS ACHIEVING A SUSTAINABLE PEACE AND ORDER IN SOUTHERN PHILIPPINES

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ABSTRACT

The Organic Law for Bangsamoro Autonomous Muslim Mindanao (BARMM) has been signed as part of the law of the Philippines on July 26, 2018. This law replaced the Organic Act of the Autonomous Region in Muslim Mindanao (ARMM). It is not a perfect law and the contents are mostly amended by the non-Muslim lawmakers. It does not fully achieve the implementation of all the important provisions in the Tripoli Agreement. The main objective of this paper is to identify whether the Bangsamoro Organic Law (BOL) can play an important role in providing peace and justice to the Muslim minorities in the Philippines. A descriptive and observational research method will be utilised to understand how far the BARMM can fill the gaps in providing development and services to Muslim communities. To meet some of the existing challenges left behind by the ARMM, the BARMM needs to develop a deeper understanding on the current issues like health, poverty and corruption affecting the provinces and cities within its jurisdictions. The paper concluded that BOL is just one of the mechanisms in promoting peace and justice in Mindanao. It is not a final stops for the government's journey for a lasting peace. Thus, it ends with some ideas for new areas of research on sustainable peace and security.

Keywords: Bangsamoro Organic Law, Sustainability, Peace and order

Introduction

The Organic law was approved by the lawmakers as a better package to end the struggle of the Filipino Muslim minorities. This law becomes the final outcome of the peace process for Muslim Mindanao problem in many decades between the Bangsamoro movements and the Philippine government. The Mindanao peace process has different dimensions and each of it has its own characteristics which may be different from other peace negotiations. The Muslim problems are not only against the government but also with their relationship with the majority Christians. The conflict provides various dynamic issues – the marginalization on political and economic development, the application of the Shariah or Islamic laws in all aspects, illegal acquisition of Muslim ancestral lands, and socio-cultural discrimination.

There are several actual settlements and peace negotiations that have been held within the Philippines and abroad when the conflict became a serious threat to national and regional security. Unfortunately, there are contested issues that caused the non-implementation of the agreement among the parties. There are numbers of a lesson to learn from those failures such as understanding the unique historical and cultural context of the existing conflict among the parties particularly the three main groups of the Filipino Muslims, the Maranaos, the Maguindanaons and the people of Sulu Island. There was a case where the government able to realize the sentiment and aspiration of the Muslim minorities for a legal reform. In the early 1970’s, the government tried to improve its relationship with the Muslims, through a dramatic demonstration of its constructive concern for Muslims in the Philippines by proposing the codification of
the Muslim Personal Laws. Thus, the Code of Muslim Personal Laws became the priority project identified for reconciliation and reconstruction of the Muslim communities. The government believed that codifying the Muslim family law, the Muslim communities are still deemed as part of dar-al-Islam. Therefore, there is no legitimate jihad which can take place in the Muslim areas. This is the background that leads to the enactment of Presidential Decree 1083, the “Code of Muslim Personal Laws in the Philippines”.

As part of the peace process, the formation of the Autonomous Region in Muslim Mindanao (ARMM) was created in 1989 under the Republic Act No. 6734. It was clearly provided by the Republic Act that “the establishment of autonomy in the Southern Philippines (is) within the realm of the sovereignty and territorial integrity of the Republic of the Philippines (Kashim, 2007).” It was amended by the Republic Act 9054 in 2001 for strengthening and expanding the territorial jurisdiction of ARMM by the inclusion of two cities which are highly populated by Muslims, the Basilan and Marawi City.

The creation of ARMM was supposed to be an important instrument in bringing peace and justice to the Filipino Muslims. It was established in accordance with the Constitutional provision which provides that there shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines (Section 15, Article X, Philippine Constitution). It has been authorized to seek the Tripoli Agreement and for the development of the Muslim communities.

The MILF becomes the movement to represent the Muslim minorities when the 1996 Final Agreement had floundered and the MNLF failed to bring peace and development under the ARMM. The Muslims have relied on the MILF objectives that it would improve the power and resources of the Muslim communities in the Philippines. They expect that the government will be obliged to give more meaningful changes on their grievances and to provide a significant Bangsamoro autonomy with the implementation of the provisions of the Tripoli agreement under the Bangsamoro Autonomous Region for Muslim Mindanao (BARMM).

The past national administration have been trying to put a peace initiative with the MILF to end the Mindanao conflict, but due to a variety of reasons and multi-dimensional motives from the non-Muslim peacemakers and the members of the House of Representatives, none of those proposed peace settlements have succeeded. As an example is the creation of the Memorandum of Agreement-Ancestral Domain (MOA-AD), a document that outlined the creation of a Bangsamoro Juridical Entity with its own police, military and judicial systems (Marcelo, 2014). The Supreme Court declared the agreement unconstitutional and illegal. This is one of the many challenges during the peacebuilding process that attempt to undermine the conflict settlement. This is a forbidding part of realities that sometimes cannot be avoided during the peace process. Drawing on many series of peace talks between the government and the MILF for the past few years, some of the government peacemakers able to have an extensive experience in dragging and in some cases spoiling the agreement due to some motives. This is due to the mind trying to stall the peace process to their own advantage. But with the strong skills and patience by the MILF panel in going with the negotiations, they were able to build the capacity to wait and effectively lay the course of any intricacy for the peace negotiation process. As Muslims, they were able to stand the test on how to be tolerant and progressive in facing the many challenges for many years in several rounds of peace process with the government. Islam means “peace” and teaches them to be patience, progressive and endure a good attitude as an instrument for self-control. As Kamali pointed out that it is significant that the Qur’an designates Muslims as a community of the middle way (ummatan wasatan) which, together with its parallel concept of ‘mutual recognition (ta uruf) for friendship with other communities and nations, visualise Muslims as the agents and facilitators of peace (Kamali, 2016).

In spite of so many barricades and critics during the peace process, the new administration under President Duterte signed into law the BOL on July 26, 2018. This law became effective on August 10, 2018. People who opposed the BOL always expressed negative doubts that it does not guarantee the total cessation of hostilities in Mindanao and it will be similar to the 1996 peace accord between the MNLF and the Philippine government. There are also challenges on how the MILF achieved the autonomous growth if it has no blueprint for economic and political development. These are few attempts to promote fragmentation that affect the peace process, including, the violence and war created by the splinter Maute group after declaring its collaboration with the Islamic State of Iraq and Syria (ISIS). Fortunately, the Marawi siege
became a trend by the MILF to strengthen and remind the government, for the immediate signing of the BOL.

The BOL is based on the Comprehensive Agreement on the Bangsamoro (CAB) which was signed on March 27, 2014, by the MILF and the government after 17 years of working to pursue a comprehensive peace deal. The Organic Law of ARMM had been replaced by the BOL after its ratification and enactment. Under the CAB, the MILF agreed to the following matters: to decommission its armed, the Bangsamoro Islamic Armed Force, and integrate the qualified former militants into a police force that would be in charge of the security of the new autonomous region; an agreement on revenue generation and wealth sharing, power sharing, and normalisation and devolution resources (taxes, natural resources in favour of the proposed Bangsamoro Government (Panes, 2016). However, the intents of the Bangsamoro Basic Law was strictly scrutinized by the non-Muslim lawmakers. Beyond the anticipation of the parties, especially the MILF panel and the Muslim communities, the Philippine Congress deleted the 28 provisions which could be the substantive parts of the BBL. As Hutchcroft emphasised, “House and Senate committees each wrote their own new version of the BBL, with many provisions veering away from the original bill to such an extent that they were deemed unacceptable by the MILF (Hutchcroft, 2018).” But the Muslims’ strong patience and trust became the backbone for them to endure circumstances or issues related to the ratification of the organic law. The MILF was so confident that the deleted provisions which are deemed part of the Muslims identity, powers and resources should be restored in the BOL.

Methodology

The method used for this research is descriptive and observational study to understand how far the BARMM can fill the gaps in providing development and services to Muslim communities. The research has been done at the time when the BOL was signed into law by the President of the Philippines. The observation able to attain the historical information that its creation and approval was politically manipulated. According to some non-Muslim politicians argued that BOL will not totally marks the future peace and security and socio-economic development of the Muslims in Mindanao. The collection of data in the library is to search the definitions, terms and information in the books, articles and journals. Internet or online search has been used in accessing the relevant websites for current information.

Findings and Discussions

Autonomous Organic Act: The First Step towards Realization of Peace in Mindanao

Prior to the enactment of the the Bangsamoro Organic Law, the Autonomous Region for Muslim Mindanao was governed by the Organic Act which was signed into law on August 1989 as Republic Act 6734. The Organic Act defines the basic structure of ARMM, particularly the three branches of the regional autonomous government, such as the executive, legislative and judiciary departments. It follows the government political structure, the presidential system, which was different from the ministerial or parliamentary form of government under the Tripoli Agreement. The Republic Act 6734 was amended by Republic Act 9054 which provides for the expansion and extension of the Autonomous Region. This law was signed by the President on March 31, 2001. The ARMM was considered as an integral part of the Philippines but more powers were delegated to it by the central government, such as education health, human resources, science and technology, and people empowerment (Turner, 2008). But the national government retains the powers on foreign affairs, national defense and security, administration of justice and other important functions for central administration.

The creation of Mindanao autonomy through ARMM as a political solution to Mindanao conflict has been reaffirmed by the 1996 Final Peace Agreement between the government and the MNLF conflict. This agreement maintained the autonomous government political structure as ARMM regional government is divided between an executive branch (the regional governor and vice governor) and a legislative branch, both selected through popular vote (Lingga, 2018). It was Nur Misuari, the MNLF chairman who became the ARMM Governor and assigned to be responsible in formulating policies on the regional development, especially on the economic aspect. However, this agreement through ARMM failed to provide peace and economic development to the Muslim communities. In 2001, he was removed as chairman of the MNLF
due to lack of progress.

The ARMM’s administration was a great failure to achieve a lasting peace and justice among the Filipino Muslims. It has been rocked by corruption, mismanagement, election fraud and high poverty. It has been alleged that MNLF failed to provide sufficient mechanisms to ensure effective local governance, while the supposed power-sharing plan embedded in the 1996 Final Peace Agreement was made empty by the national government’s failure to provide timely fiscal injections for a viable autonomy (Hall, 2014). The government was not able to fulfill the provision of the 1996 Final Peace Agreement which clearly provides that a “special socio-economic and cultural program to cater to MNLF forces not absorbed in the armed forces and the police to prepare them and their families for productive endeavors, provide for educational, technical skills and livelihood training and give them priority for hiring in development projects” (Article 20a, 1996 Final Peace Agreement). It shows that both parties have not performed their own part to attain a real peace and justice in the development of the ARMM.

**BOL and Its Sustainable Intent for Peace and Development**

The Bangsamoro Organic Law was formerly called as the Bangsamoro Basic Law (BBL). It has been simply described as the “Road to Peace in Mindanao” or the product of the “Final Peace Agreement” between the government and the MILF. It becomes the current demand to quell the many decades of conflict in Muslim Mindanao. It has been also considered as a tool to correct or rectify historical injustices to the Bangsamoro people. BOL becomes the latest mechanism that can provide a sustainable peace and development for Muslims in Mindanao.

Under President Duterte’s administration, the BOL was approved and ratified for the purpose of bringing peace and prosperity to the Bangsamoro regions. The Republic Act 11054 or the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (OLBARM) was signed into law on July 27, 2018. It has been ratified by the people within the territories covered by BARMM through plebiscite on January 25, 2019, five months after its effectivity. While the MILF is trying to consult the people for the plebiscite, traditional leaders appealed to other “to silence their guns” and give the new political entity a chance to prove its worth (Mordeno, 2018). Some armed groups in the Bangsamoro joined the MILF and recognised the sincerity of the current government to rectify the decades war in Mindanao and to have a real autonomy based on what had been agreed under the Tripoli agreement. After BOL has been ratified, it weakens the rise and expansion of the ISIS in Mindanao.

The BOL dissolved the ARMM after the BARMM started its transition period. The BOL is currently addressing several challenges in ensuring that the Muslims will enjoy a greater autonomy than what has been provided by the ARMM. The BOL may have different and more contents based on the comprehensive demand for the full implementation of the Tripoli Agreement. But some part of it may have provisions similar with the Organic Act for ARMM. The BOL main objective is to establish a political entity, provide for its basic structure of government in recognition of the justness and legitimacy of the cause of the Bangsamoro people and the aspirations of Muslim Filipinos and all indigenous cultural communities in the Bangsamoro Autonomous Region in Muslim Mindanao to secure their identity and posterity, allowing for meaningful self-governance (Section 3, Article 1, BOL). With the BOL, the BARMM government has been trying to build the new foundation of a Bangsamoro region. The Bangsamoro Transition Authority (BTA) has been created and expanded its powers and responsibilities under the BOL. They have a new organized government and able to enact substantive laws. To date, the BTA has approved twelve (13) bills including acts adopting the BARMM’s official flag and official emblem, Bangsamoro Appropriations Act (BAA) 2020, Bangsamoro Socio-Economic Development Act of 2019, Bangsamoro Hymn Act of 2020, Recruitment Agency Regulation Act of 2020, Act Defining the Power of Appointment in BARMM, and creations of the Bangsamoro Attorney General’s Office (BAGO), Bangsamoro Women’s Commission (BWC), Bangsamoro Human Rights Commission (BHRC), Bangsamoro Youth Commission (BYC), and Bangsamoro Sports Commission (BSC). (Bureau of Public Information) (BARMM Website). Aside from these Acts, there are other priority laws waiting for the approval of the interim parliament including the Bangsamoro Education Code, Bangsamoro Electoral Code, Internal Revenue Code, Bangsamoro Indigenous People’s Affairs Code, Bangsamoro Civil Service Code, and Bangsamoro Local Government Code.
Among the priority laws, the Bangsamoro Administrative Code has been recently approved on October 28, 2020. This Code defines the structural, functional, and procedural principles and rules of governance of the BARMM. In line with the Administrative Code basic principle, it provides that ‘in pursuit of moral governance, shall maintain honesty, integrity, transparency, and accountability in governance and take positive and effective measures against graft and corruption (Bangsamoro Website).

Another new product development effort by the BARMM was the official launching of the 1st Bangsamoro Development Plan (BDP) 2020-2022 on November 4, 2020. It is a plan which is in line with the 12-point priority agenda of the Bangsamoro Government which aims to harmonize existing development plans in the BARMM such as BDP I and II (MILF-BDA), Unified Bangsamoro Development Plan (MILF and MNLF) and ARMM Regional Development Plan (RDP) 2017-2022 (Bangsamoro Website). The BARMM is trying to play an important role in developing the resources and policies that will uplift the lives of the people in the Bangsamoro region. With this development, poverty and corruption will be eradicated. It is a fact that success of the BARMM plans for development will bring peace, stability and justice to the Muslim communities in the Philippines.

Conclusion

The BOL is an important product development towards peace and order in Southern Philippines, particularly the provinces and cities within the jurisdiction of BARMM. With a view of promoting a sustainable peace and security, it becomes a current mechanism for the Bangsamoro government to rectify the past mistakes of ARMM in the context of economic and political development. The BTA have a lot of things to be done in its transition period until 2022. Although, the BOL is not perfect as the provisions are mostly amended by the non-Muslim lawmakers, the determination and dedication of the leaders to work hard for a better future of the people will guarantee a lasting and a sustainable peace in Mindanao. The Bangsamoro priority laws can be considered as testing ground in providing a reform and good governance for the Muslim communities. To help achieve its goal for a sustainable peace and order, the BARMM should give priority in eliminating corruption to end poverty.

References


