



東京大学
THE UNIVERSITY OF TOKYO



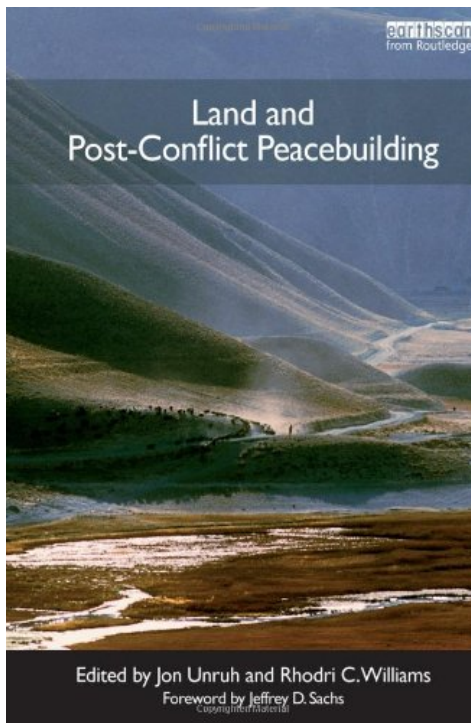
McGill



PRI

This chapter first appeared in *Land and Post-Conflict Peacebuilding*, edited by J. Unruh and R. C. Williams. It is one of 6 edited books on Post-Conflict Peacebuilding and Natural Resource Management (for more information, see www.environmentalpeacebuilding.org). The full book can be ordered from Routledge <http://www.routledge.com/books/details/9781849712316/>.

© 2013. Environmental Law Institute and United Nations Environment Programme.



Legal frameworks and land issues in Muslim Mindanao

Paula D. Knack^a

^a *Philippine Department of Environment and Natural Resources*

Online publication date: November 2013

Suggested citation: Knack, P. D. 2013. Legal frameworks and land issues in Muslim Mindanao. In *Land and post-conflict peacebuilding*, ed. J. Unruh and R. C. Williams. London: Earthscan.

Terms of use: This chapter may be used free of charge for educational and non-commercial purposes. The views expressed herein are those of the author(s) only, and do not necessarily represent those of the sponsoring organizations.

Legal frameworks and land issues in Muslim Mindanao

Paula Defensor Knack

Mindanao, the second largest island grouping in the Philippine archipelago, has experienced lengthy conflict over land, resources, and identity. It is the only island grouping with a large Muslim population, while the rest of the country is predominantly Christian.

Territorial conflict in Mindanao began in the sixteenth century, when Spain conquered northern Mindanao and a small part of southern Mindanao from the sultanates or royal kingdoms of Sulu and Maguindanao. After years of revolts, the Philippine war for independence from Spain broke out in 1898. This was overtaken later that year by the Spanish-American War, which resulted in America's purchase of the Philippines from Spain. Mindanao was subdued by American forces, but conflict between the Moros and American-sponsored Christian migrant settlers and workers from other islands continued, resulting in laws legalizing confiscation of lands owned by the Moros, large-scale land acquisitions (also referred to as *land grabbing*), and prejudice against and marginalization of the Moros.¹ After Philippine independence from American rule in 1946, temporary calm ensued. However, in the 1960s, conflict resumed between Moros and Christian settlers, giving rise to a secessionist movement.

In the 1970s, a war of independence was launched by the Moro National Liberation Front (MNLF). Twenty years of negotiation, beginning with the Tripoli

Paula Defensor Knack is a former assistant secretary for lands and legislative affairs of the Philippine Department of Environment and Natural Resources, former head of national policy studies and legal specialist of the World Bank-AusAID Land Administration Management Program in the Philippines, and former legal adviser to the Philippine Permanent Representation to the Organization for the Prohibition of Chemical Weapons. The views expressed in this chapter are those of the author and do not necessarily represent those of the Philippine government.

¹ The term *Moro*, as used in this chapter, refers to Muslim inhabitants of Mindanao, who share a distinct culture and history. However, in other contexts, the term may hold a different meaning. See Yuri Oki, "Land Tenure and Peace Negotiations in Mindanao, Philippines," in this book. Oki uses the term *Moro* to refer to Muslims who are involved in insurgency due to their discontent with the central government of the Philippines and their desire for autonomy.

452 Land and post-conflict peacebuilding

Agreement in 1976 and culminating in a second peace agreement in 1996, put a temporary stop to the conflict. In 2008, the government and the Moro Islamic Liberation Front (MILF) signed the Memorandum of Agreement on Ancestral Domain (MOA-AD),² which marked a significant step in the Moro quest for a homeland by setting up the Bangsamoro Juridical Entity (BJE). Publication of the proposed area of the BJE sparked vehement public opposition, however, because the territory overlapped with non-Muslim regions and was determined without consultation of affected Christian communities. The Supreme Court ruled in *Province of North Cotabato v. GRP* (Government of the Republic of the Philippines) that this entity violated the constitution.³

This chapter discusses the complex legal framework for resolving the struggle over land and natural resources in Mindanao. It demonstrates how conflicting laws and policies inherited from colonial regimes have added another layer of complexity to the conflict and made the achievement of lasting peace more difficult. A comprehensive understanding of such frameworks is crucial in preventing a return to conflict and achieving stable political and social regimes in post-conflict countries.

The chapter is organized as follows: The first part reviews the relationship between the legal framework and the land conflict in Mindanao; the second part reviews the historical roots of the conflict. The third discusses the peace agreements and the creation of the Autonomous Region in Muslim Mindanao (ARMM); the fourth discusses the passage of the Indigenous Peoples Rights Act (IPRA) and its impacts on the legal framework; and the fifth discusses critical land issues arising from the 2008 MOA-AD. The chapter concludes by reviewing lessons learned.

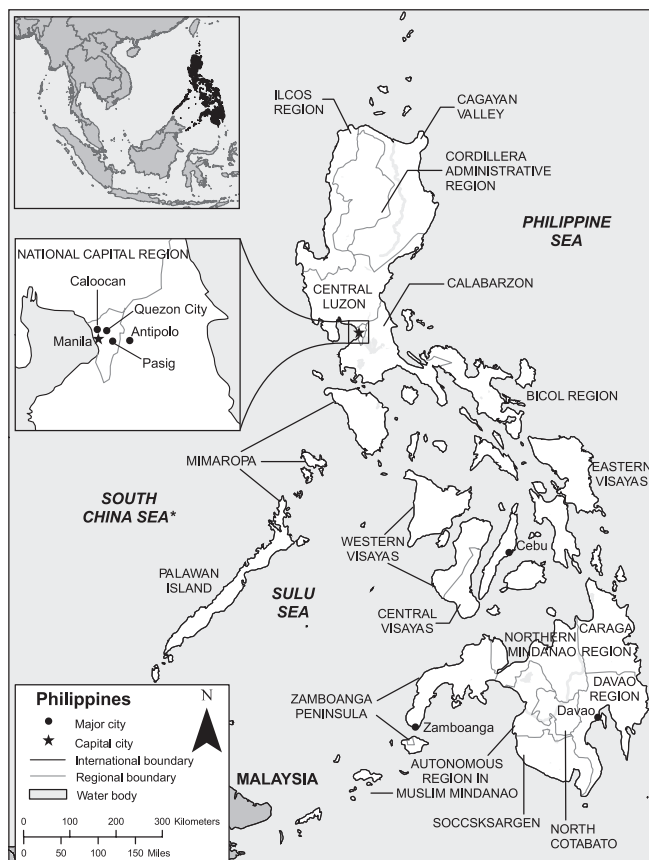
LAND LAWS AND CONFLICT

Land conflicts are complex and politically charged, and their resolution requires attention to both substance and process. The framework of secular and religious laws and regulations of a post-conflict country can help create stability or cause a relapse into conflict. An adequate legal framework arising from the harmonization of relevant laws is essential for a peace agreement to provide just and equitable distribution of power, income, and resources.

Land laws are often determined by powerful national and regional interests. When a bill is introduced proposing to allocate land, expand jurisdiction, or give security of tenure to certain groups, powerful groups compete to influence the drafting of the law and often deliberately insert loopholes. In the Philippines, powerful politicians come from landed families with strong ties to business. In the ARMM, land is a major source of conflict among clans and of grievances that have driven the secessionist movement.

² The full name of the agreement is the Memorandum of Agreement on the Ancestral Domain Aspect of the GRP-MILF Tripoli Agreement on Peace of 2001. For its text, see www.ucd.ie/ibis/filestore/Kuala%20Lumpur%20Agreement.pdf.

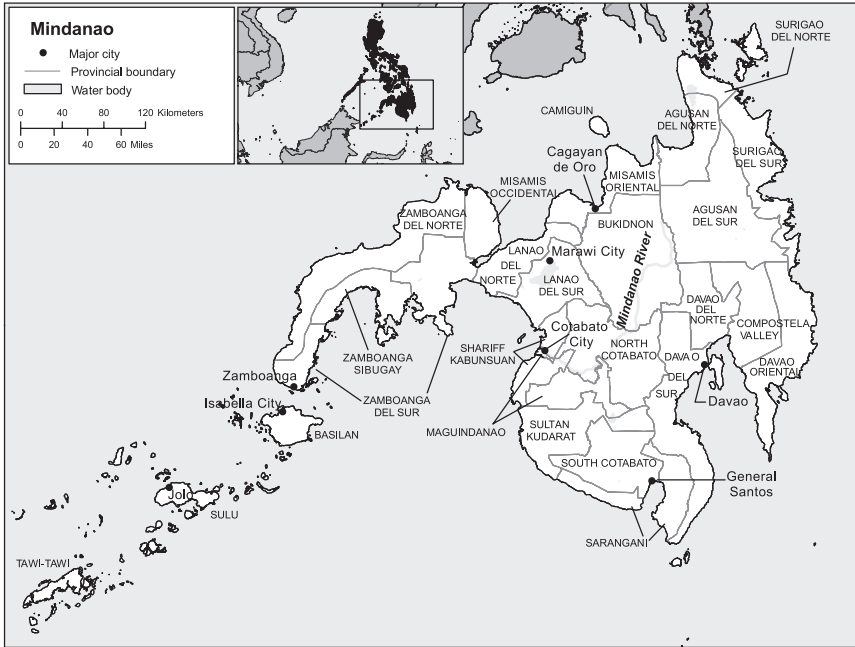
³ G.R. No. 183591, October 14, 2008.



* The South China Sea is also known as the West Philippine Sea.

Land laws and policies hold the key to the social and economic well-being of a post-conflict region. Consistent land laws and secure land tenure encourage stability and reduce the risk of renewed conflict. However, the legal framework established in the peace agreements to resolve the land dispute in Mindanao is inadequate to provide genuine autonomy and peace.

Peace negotiators are presumed to be informed on basic constitutional and land issues affecting negotiations. This is essential in the Philippines, where land laws are a complicated product of several colonial and postcolonial regimes and where the functions of government agencies often overlap. If parties to negotiations consent to boundary agreements they know will be impossible to implement, they are not acting in good faith. This can lead to mistrust between the parties and can inhibit or even prevent further negotiations. Conflicting laws should be acknowledged at the outset, and all possible solutions drafted prior to negotiations for a peace agreement. Should an element to the agreement require legislation, this should be clearly communicated.



Constitutional amendments present a more complex issue than laws. If a proposed peace agreement entails numerous amendments of the constitution, then the solution is no longer within the competence of the negotiating parties. Even one constitutional amendment requires widespread consultation of citizens. If the amendments are numerous enough, they could require the drafting and ratification of an entirely new constitution. Amendments that deal with territorial integrity, foreign affairs, trade relations with other countries, natural resource management that involves territorial waters, or defense cannot be the subject of bargaining during peace negotiations, as these are defining characteristics of a state. A peace agreement that cannot be carried out breeds more conflict. Hence, transparency and thorough comprehension of relevant national and international laws must characterize peace negotiations.

The gap between broad constitutional principles and current land laws, policies, and practice can be vast. Such is the case in the Mindanao conflict, which has spanned generations and lasted through several constitutions and the terms of several presidents. Problems such as poverty, underdevelopment, and lack of secure land tenure prevail despite the passage of several national land policies intended to address them. The longer the conflict, the more difficult it is to reconcile new laws with existing ones into a coherent legal framework. A key post-conflict priority, therefore, must be to establish a coherent legal framework to guide institutions in implementing the provisions of the peace agreement. The legal framework has important implications for the return, recovery, and

reintegration of people affected by conflict. It can help establish territorial boundaries, create a political and economic structure, secure land tenure (and thus sustainable livelihoods), and provide a clear way to settle property claims. Lack of a coherent legal framework to address post-conflict land and property issues can threaten a fragile peace.

In the Philippines, resolution of land conflicts requires consultation among government agencies with overlapping functions. The ARMM in Mindanao, which is the only region in the country with a dominant Muslim population, has its own institutions and laws within the Philippine constitutional framework. The rest of Mindanao, with a Christian majority, is governed by national land laws. Resolving the land dispute in Mindanao requires thorough consideration of the constitution; national, regional, and ARMM laws; the mandates of various government agencies; and even sharia (Islamic law, which applies only in the ARMM and is limited to family and personal relations).

Peace agreements state broad principles and cannot possibly enumerate all pertinent laws and regulations, especially in situations where multiple legal systems are in effect with various modes of dispute settlement. Without a coherent legal framework to implement peace agreements, one that reconciles existing laws with subsequent ones, grievances are likely to accumulate, making the resumption of conflict likely and peace negotiations more difficult.

HISTORICAL BACKGROUND

Mindanao's conflict areas are in the southwestern and central areas of the island and are predominantly Muslim. The term *Moros* was first used to describe the Muslim inhabitants of Mindanao by the Spanish, who colonized the Philippines beginning in the sixteenth century, because they reminded the Spanish of the Moros (Moors) from North Africa who ruled Spain for 800 years. Today, *Moro* or *Bangsamoro* (Moro people) is the generic name for thirteen tribes, a quarter of the population of Mindanao, who share a belief in Islam and a distinct culture and history. According to the 2001 census of Mindanao, 71.77 percent of the population are Christians and migrant settlers and their descendants; 28.23 percent are Moros; and 5 percent are Lumads, indigenous people of Mindanao who are not Muslim (Bacaron 2010).⁴ The use of the term *indigenous* to describe Muslims is controversial, as not all Muslims want to be considered indigenous.

Key eras in Mindanao history include the sultanate era (1310–1565), the Spanish colonial era (1565–1898), and the American colonial era (1898–1946). The Philippines became independent on July 4, 1946.

⁴ The percentages derived from the 2001 census are taken directly from Bacaron (2010) and exceed 100 percent. The author attributes this discrepancy to the transient nature of the Lumads, who are Christians but also wish to be classified as Lumad in view of their claim to ancestral domain and for purposes of qualifying as participants in government programs.

The sultanates of Mindanao

Islam was brought to the Philippines in 1310 by Arab traders, Sufis (Muslim mystics), Muslim missionaries, and other travelers who followed the trade routes from Arabia overland through Central Asia and then overseas to India, China, and Southeast Asia. The Islamization of the Philippines was eventually interrupted by Spanish colonists and missionaries (Majul 1973; Jubair 1997).

Islam changed politics, governance, economic systems, social structures, and justice systems. The sultanates of Sulu and Mindanao were established in the fifteenth century and had diplomatic and trade relations with other Asian countries (Jubair 1997; Majul 1973), who recognized them as independent and sovereign. Arts, textiles, pottery, and jewelry found in Mindanao came from as far away as the Middle East.

The Spanish regime

Ferdinand Magellan, a Portuguese navigator financed by Spain, sighted the Philippines in 1521. Spain made the Philippines a formal colony in 1565, establishing Manila, on the island of Luzon, as the capital in 1571. The conquerors were unable, however, to subjugate the sultanates in Mindanao, which had a more advanced social structure than the societies in Luzon and Visayas, and the sultanates were left largely alone.

Spain introduced Christianity, significant church influence in government, a unified government except for Mindanao, and a code of law. One of the new doctrines that Spain introduced was the regalian doctrine, which enabled the Spanish crown to claim all land not registered as private property.⁵ The regalian doctrine lives on in the present constitution of the Philippines, in article XII, (entitled “National Economy and Patrimony”) National Economy and Patrimony, which reserves for the state ownership of all natural resources other than agricultural lands, and the power to explore, develop, and utilize those resources.

Under the regalian doctrine, the government owned the land, and the Church administered it. Spanish religious orders and charitable organizations were given *encomiendas*—labor trusteeships or land grants measured by the number of indigenous people placed under their control—by the Spanish crown. The *encomienda* did not confer land tenure, but it gave the holder absolute control of indigenous people living within it, with the power to require them to contribute labor and a large share of their crops. Indigenous people who did not wish to pay tribute moved into the interior, away from the colonizers (Caballero 2002). Those who were educated in Europe, known as *ilustrados*, were critical of the abuse of the Spanish rulers and friars, and often led revolts (Agoncillo 1990; Constantino 1975; Rafael 1994). Eventually, the *encomiendas* were partitioned into smaller landholdings (though still sizeable by today’s standards) known

⁵ The issue of the regalian doctrine resurfaced in the 2008 MOA-AD controversy.

as *haciendas*, which Spanish friars obtained as land grants from the crown, donations from converts, or payments for debts, or purchased at very low prices from indigenous people (Caballero 2002; Gaspar 2000).

To strengthen their hold on the population, the Spaniards worked to Christianize the indigenous population and recruited them as troops in the conflict against the Moros. The Moros in turn raided Spanish territories, especially those along the coast occupied by Christianized indigenous people, who came to be known as Filipinos. This marked the beginning of mistrust and conflict between Christians and Moros. Filipinos were rewarded by the Spaniards with vast tracts of land, while the Moros, because of their opposition to the Spanish regime, were not. The trend of Christians owning more land than Moros even in Mindanao continued after the arrival of the Americans.

In 1898, Filipinos launched a nationwide armed revolution against the Spanish. When the Spanish-American War began later that year, the Filipinos allied with the Americans, and the Moros of Mindanao reasserted their authority over areas vacated by the Spaniards. The Philippine revolutionary government had difficulty in asserting its authority in Mindanao, and conflicts between Moros and Filipinos emerged (Gomez 2001; Tolibas-Nuñez 1997; Fowler 1985; Gowing 1970; Jubair 1997; Majul 1973; Fast and Richardson 1979).

The American regime

The Spanish-American War ended with Spain ceding the Philippines to the United States for a payment of US\$20 million. Mindanao was included in the treaty, although Spain had never fully conquered the island and thus in the eyes of many had no right to cede it. As it was clear that the United States was not going to grant independence to the Philippines, Filipinos in Luzon launched a campaign against American forces in 1898 that lasted until 1902. The Americans quickly learned of the distrust between Moros and Christians and decided to pit one group against the other to prevent them from joining forces to resist U.S. rule.

The Americans were concerned about the legitimacy of their sovereignty over the Moro country, particularly the Sulu sultanate. On August 20, 1899, General John C. Bates and Sultan Jamalul Kiram II of Sulu signed the Kiram-Bates Treaty. In it, the United States was recognized as the sovereign power over the Sulu Archipelago, and in turn recognized the rights and dignity of the sultan and the *datus* (chieftains of noble descent) (Jubair 1997).

On April 9, 1900, General Bates informed the Sulu sultan that the agreement had been accepted by the president of the United States, except for the article regarding the practice of slavery. But the U.S. Congress did not ratify the treaty, on the grounds that the sultan and his people were polygamous. Under American law, the treaty was not valid, but the sultan did not understand this and thought of the Americans as friends. The Western concept of sovereignty was also alien to the Moros, and the sultan failed to appreciate its complex and far-reaching implications (Jubair 1997).

458 Land and post-conflict peacebuilding

While the Philippine-American War ended in 1902, members of the Katipunan, a revolutionary secessionist organization, continued to battle the Americans. Other Filipino revolutionaries struggled among themselves for leadership of the fight against the United States. The Americans had earlier promised to respect the sovereignty of the sultanates if the Moros remained neutral during this power struggle, but as soon as U.S. forces began to win against the Filipino revolutionaries, they proceeded with the conquest of Mindanao. The Moros fought until 1913, when they succumbed to the superior force of the Americans.

The Moros lost not only sovereignty but also their lands. New laws—regarding land registration, declaration of public land, mining, cadastral surveys, creation of agricultural colonies, procedures for private acquisition of alienable and disposable public land, and land settlements—were often imposed without understanding the Moro culture and drastically reduced the lands owned by the Moros (Quevedo 2003). Many land laws which deprived indigenous people, especially Moros who had not obtained title to communally owned ancestral lands, were established during the American period. Among these laws were Commonwealth Act No. 141 or the Public Land Act, which gave Christians more homestead lots than Muslims;⁶ Public Act No. 718 of 1903, which voided all property of the Moro sultans unless recognized by the colonial government; and Public Act No. 926 of 1903, which declared unregistered lands to be in the public domain and open to Christian homesteaders. Land title registration was established as conclusive evidence of ownership of land. The application of American land policy caused many Muslims to lose their traditional land rights (McKenna 2008). Though it failed to destroy the Moros' traditional societies and political structures, American rule modified them by abolishing the power and privileges of their ruling elite (Perterra and Ugarte 2002; McFerson 2002).⁷ Armed conflicts erupted between Christians and Moros over agricultural land.

The onset of the Great Depression prompted the sugar industry and labor unions in the United States to press for Philippine independence so that cheap sugar and labor from the Philippines would not end up in the United States. The first attempt at legislation calling for Philippine independence—the 1933 Hare-Hawes-Cutting Act—passed the U.S. Congress over President Herbert Hoover's veto, but was rejected by the Philippine legislature on grounds that it allowed U.S. control over naval bases after independence. The 1934 Tydings-McDuffie Act, known as the Philippine Independence Act, passed both the U.S. Congress and the Philippine legislature with the provisions on U.S. naval bases deleted. It established the Commonwealth of the Philippines, which would be self-governing with foreign policy and certain other areas remaining under U.S. control, and provided for a ten-year transition to independence (Dolan 1991).

⁶ This law remains the major public land law and provides the legal basis for land use classification at the national level.

⁷ Further readings on the American regime in the Philippines include Miller (1990), Fowler (1985), and Salman (2001).

During the 1935 constitutional convention, 120 Moro datus of Lanao drafted the Dansalan Declaration, expressing their desire not to be included in the Philippines independence agreement:

[W]e do not want to be included in the Philippines for once an independent Philippines is launched, there would be trouble between us and the Filipinos because from time immemorial these two peoples have not lived harmoniously together. Our public land must not be given to people other than the Moros (*Philippine Muslim News (Manila)* 2 (2): 7–12, July 1968, cited in Kamlian (2003), 3).

Subsequently, the 1935 Philippine constitution, which is mostly a copy of the U.S. Constitution, was passed, and Manuel Quezon became the first elected president. The Commonwealth administration pushed for the economic development of Mindanao. Poor people from Luzon and the Visayas, most of them Christians, settled in Mindanao—generally under the homestead policy, which was used and abused to secure ownership or control of land. Some settlers farmed the land themselves or recruited others to work it under various tenancy or labor arrangements; others acquired vast tracts of land as an investment (Gutierrez and Borrás 2004). Land laws were manipulated to enable big businesses to establish plantations in Mindanao, which often paid Christian workers far more than Moros. Resettlement programs and plantations set the stage for major conflicts as rural Muslims and Lumads were further marginalized. If occupants refused to leave and the landowner was influential, occupants were evicted by force (McKenna 1998). This pattern of marginalization, loss of land, and neglect significantly limited development opportunities for the Moro people, and this lack of opportunity continues today.

PEACE AGREEMENTS AND THE CREATION OF AN AUTONOMOUS REGION

The current phase of the Moro rebellion has been led by the MILF. Land remains the central issue, though the actors have changed somewhat. The MNLF, the first and largest armed separatist group, commanded 30,000 troops at its peak in the 1970s (Gershman n.d.; David 2003). The MILF is more religion-oriented and began as a splinter group of the MNLF. Its major grievance is the continued socioeconomic underdevelopment of and discrimination against the people who live in Mindanao, particularly in the Sulu Archipelago.

The Tripoli Agreement of 1976 and the ARMM

In the 1960s, students and nationalists, mostly young Moro men, started the modern movement for Moro secession (Caballero-Anthony 2007).⁸ Their grievances included

⁸ For a discussion of the Mindanao conflict from the perspective of secessionist theory, see Biehl (2009).

460 Land and post-conflict peacebuilding

discrimination against Moros, poverty, and inequality due to marginalization of Moros caused by Christian migrants in Mindanao. The movement gained popular support after the eruption of violence in Cotabato in 1969–1971 and in response to the declaration of martial law in 1972 by President Ferdinand Marcos. In 1976, the government and the MNLF signed the Tripoli Agreement, which provided for an autonomous region in the southern Philippines and for the structure of the executive branch of government, which was to be followed by additional peace agreements for the region. Control of foreign policy remained with the central government, but the autonomous region was allowed its own economic and financial infrastructure. Upon the signing of the agreement, a provisional government was established, followed by a formal declaration of an autonomous government and ceasefire. While the Tripoli Agreement was implemented by various laws under President Marcos during the martial law regime, Moros claim that it was not genuinely implemented. In 1977, hostilities broke out again, though they were not as intense as those prior to the ceasefire.

During the term of President Corazon Aquino, the 1987 constitution was ratified. Three sections of article X of that constitution have particular bearing on national sovereignty and the autonomous region:

Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be an Autonomous Region in Muslim Mindanao and the Cordilleras as hereinafter provided.

...

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

...

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

The national government, in granting autonomy to a region in Mindanao and dealing with secessionist groups such as the MNLF or the MILF, must contend with constitutional and statutory limitations (Brillantes and Tiusongco 2005). Subsequently, Presidential Decree No. 1681 provided for the Regional Assembly and the Regional Executive Council; this was the final step in the framework of the autonomous government. Local legislative councils were also established. The creation of the autonomous region aimed to enhance the attainment of peace and order, accelerate socioeconomic development, and resettle those displaced by conflict.⁹

⁹ For further reading on a framework for autonomy, see Coronel Ferrer (2001).

Republic Act (RA) No. 6734, known as the Organic Act, was passed in 1989 and serves as the constitution of the ARMM. The executive branch is headed by a regional governor and vice-governor; the Regional Legislative Assembly is the policy-making body; and for its judiciary, an appellate court was created to oversee the sharia courts in the ARMM, whose jurisdiction is limited to personal and family relations among Muslim residents. Consistent with the Tripoli Agreement, it was submitted in a plebiscite to the people of the thirteen provinces and nine cities proposed for inclusion. However, only four agreed to be part of the ARMM: Lanao del Sur, Maguindanao, Sulu, and Tawi-Tawi.

To address unresolved issues related to autonomy and to strengthen and expand the ARMM, RA No. 9054 was passed in 2001 (Tanggol 2005). According to the MOA-AD of 2008, discussed later in this chapter, the expanded geographical scope of the ARMM under RA No. 9054 constitutes the Bangsamoro homeland, a highly contentious issue as this includes areas with large Christian populations.

The 1996 peace agreement

Violence in Mindanao continued despite the passage of the Organic Act. In 1996, during the term of President Fidel Ramos, the MNLF and the Philippine government signed a peace agreement that was considered the most comprehensive attempt to end this violence. In accordance with the earlier Tripoli Agreement, it provided that legislative power in the ARMM—with the exclusion of issues such as foreign affairs, national security, and defense—was to be exercised by a regional legislative assembly. The agreement was to be implemented in two phases. Phase 1 consisted of a three-year transition period and the establishment of the Special Zone of Peace and Development; the Southern Philippine Council for Peace and Development, assisted by the Advisory Council; and the Southern Philippines Development Authority. Phase 2 involved amending or repealing the Organic Act by requiring a plebiscite to determine the establishment of a new autonomous government and its area of coverage (Brillantes and Tiusongco 2005).

The implementation of the peace agreement was hampered by lack of funds for reconstruction and by the national government's unfulfilled development promises. The agreement has been criticized as having a flawed concept of autonomy, restricting the political authority of the ARMM government, leaving the status of sharia law ambiguous, and failing to provide institutional and legal safeguards to ensure just and equitable socioeconomic development (Bauzon 1999). On the positive side, some members of the original MNLF entered regional politics, and many were integrated into the Armed Forces of the Philippines.

The MILF's demands differ from those of the MNLF in that the MILF wants a more significant role for sharia law and demands that the government address the issue of land distribution. Although it did not take part in the Jakarta talks that led to the peace agreement between the government and the MNLF, the MILF did participate in the truce that was in place at the time. However, the

462 Land and post-conflict peacebuilding

government accused the MILF of taking advantage of the truce to build up its troops and armaments and consolidate territory (Honasan 2000). This situation was aggravated by the kidnapping of Filipinos and foreigners by the faction Abu Sayyaff (Honasan 2000). Consequently, President Joseph Estrada's administration launched an all-out attack on the MILF in 2000 and captured several of its camps, including Camp Abubakar, the largest.

President Estrada was ousted in 2001 and replaced by President Gloria Macapagal-Arroyo. In 2001, the government and the MILF signed a ceasefire. The MILF had earlier agreed to put aside its demands for independence in order to obtain progress on the rehabilitation of conflict-ravaged areas, the implementation of previous agreements between the MILF and the government, and the economic development of Mindanao (Gershman n.d.).

THE INDIGENOUS PEOPLES RIGHTS ACT

Another key part of the legal framework governing land issues in Mindanao is RA No. 8371, known as the Indigenous Peoples Rights Act (IPRA), which was signed into law in 1997 after heavy lobbying in Congress. It gave indigenous peoples the right to ancestral domain lands and enabled indigenous cultural communities or indigenous peoples to obtain CADTs (certificates of ancestral domain title). It also made it possible to grant title to land regardless of its existing classification and use and regardless of whether it is considered alienable or disposable under land laws.

The IPRA was heralded not only for addressing the exploitation of indigenous people, but also for its guarantee that they could be full-fledged partners in the development agenda of the Philippines (Erasga 2008; Tongson and McShane 2004). However, while it gave indigenous peoples unprecedented rights to exploit and use natural resources in ancestral domain lands, Justice Reynato Puno argued in a separate opinion to the Philippine Supreme Court ruling in *Cruz v. Secretary of Environment and Natural Resources* that it "introduced radical concepts into the Philippine legal system which appear to collide with settled constitutional and jural precepts on state ownership of land and other natural resources."¹⁰ The IPRA contravened important laws relating to land classification, forestry, protected areas, mining, and environmental protection on public lands. It also conflicted with the government's policy of promoting mining to augment the national income.¹¹

The IPRA received support from various interest groups, including indigenous people's groups, human rights groups, and industry lobbyists. But its critics predicted that it would empower the state to control the exploration and development of

¹⁰ G.R. No. 135385, December 6, 2000. See also the separate opinions of Justices Panganiban and Vitug for detailed arguments that the IPRA violates the constitution and public land laws dating back to the Spanish regime.

¹¹ Based on the author's experience.

natural resources and consequently would disempower indigenous people from freely using the resources in their ancestral domains, result in legalized land grabbing by indigenous peoples, and promote fraudulent ancestral domain claims (Erasga 2008). Indigenous people were also among the law's strongest critics, claiming that the privatization implied by the process of granting titles would enable foreign companies to more easily obtain ancestral land, and would sow disunity within communities (Vargas 2004).

Another critique of the IPRA is that one of its provisions excludes from ancestral domains those property rights that preexisted the passage of the IPRA (Tauli-Corpus and Alcantara 2005). Because of this, mining companies licensed under the 1995 Mining Act continue to operate legally in these domains despite opposition by indigenous peoples.

A 2003 report by the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples documented serious human rights violations in several countries including the Philippines. The report discussed human rights implications for indigenous communities of economic activities such as large-scale logging, open-pit mining, multipurpose dams, agribusiness plantations, and other development projects. Of particular concern are the devastating long-term effects of mining operations on the livelihood of indigenous peoples and on their environment (Stavenhagen 2003).

Shortly after the passage of the IPRA, a former member of the Supreme Court, Isagani Cruz, filed a petition before the Supreme Court assailing the constitutionality of the IPRA on three main grounds: (1) that it violated state ownership of natural resources based on the regalian doctrine; (2) that it deprived the state of control over the exploration and development of natural resources; and (3) that it threatened to deprive private owners of title to their land. Despite extensive deliberations, the Supreme Court remained tied on the issue; in December 2000, it dismissed the petition (*Inquirer Mindanao* 2008).

During the period between the passage of the IPRA and the Supreme Court's nondecision on its constitutionality, the Department of Environment and Natural Resources in Manila received numerous reports of conflict between indigenous people and mining firms and between different indigenous groups over territorial boundaries. Business groups complained, while some businesses are said to have encouraged indigenous peoples to file CADTs on lands covered by their mining permits to prevent future challenges by other indigenous peoples.¹²

The Department of Environment and Natural Resources convened a task force of land experts to draft a guide to reconcile the IPRA with various national and local laws and regulations relating to land. Aspects of the IPRA directly conflicted with the National Integrated Protected Areas System Act, the Mining Act, the Comprehensive Agrarian Reform Program, and other national and local laws. One or two laws could be reconciled; but the Local Government Code,

¹² Based on the author's experience.

464 Land and post-conflict peacebuilding

which delegates the power to approve development plans to local government units, was incompatible with the concept of ancestral domain. Ancestral domains were not provided for in the drafting of land laws, due to the regalian doctrine, which was part of the 1935, 1973, and 1987 constitutions. The task force, therefore, recommended restraint on the issue of ancestral domain and opted to wait for the resolution of the Supreme Court case.¹³

To prevent escalation of tensions between government agencies and indigenous people, the task force reported this recommendation to the Senate Committee on Environment. It was brought to the attention of the task force that many of the original Lumads in Mindanao had decades earlier voluntarily migrated to other regions to seek education or better work opportunities. It could not be generalized that they were displaced forcibly or by conflict. They have since been replaced by both Moros and Christians, some of whom have established title to their lands. Hence, the issue of identifying the original indigenous peoples entitled to file CADTs was highly problematic.

THE 2008 MOA-AD

In 2008, during the administration of President Arroyo, the Memorandum of Agreement on Ancestral Domain (MOA-AD) was signed by the government and the MILF. The main issue in the negotiations was the MILF's claim of territorial rights based on ancestral domain (Tumirez 2005; Jacinto 2007; Usman and Kabling 2007). It was not a final peace agreement but a significant step in that direction. It provided for the territory of the Moro people and the powers of the autonomous government. Its most controversial provisions relate to the definition of Bangsamoro people, the establishment of the Bangsamoro Juridical Entity (BJE), the associative relationship between the government of the Philippines and the BJE (suggesting the creation of two different states), the planned expanded geographical scope of the ARMM, the BJE's right to enter into economic and trade relations with other countries, and sharing by the national government and the BJE of income from natural resources.

These provisions were challenged by the governor of an adjacent province before the Supreme Court in the case *Province of North Cotabato v. GRP*. The Supreme Court ruled that the BJE was far more powerful than the ARMM and declared the MOA-AD unconstitutional. The decision stated in part:

It is not merely an expanded version of the ARMM, the status of its relationship with the national government being fundamentally different from that of the ARMM. Indeed, BJE is a state in all but name as it meets the criteria of a state laid down in the Montevideo Convention, namely, a permanent population, a defined territory, a government, and a capacity to enter into relations with other states.

¹³ Based on the author's experience. The task force later disbanded with the change in government.

Even assuming *arguendo* that the MOA-AD would not necessarily sever any portion of Philippine territory, the spirit animating it—which has betrayed itself by its use of the concept of association—runs counter to the national sovereignty and territorial integrity of the Republic.

The defining concept underlying the relationship between the national government and the BJE being itself contrary to the present Constitution, it is not surprising that many of the specific provisions of the MOA-AD on the formation and powers of the BJE are in conflict with the Constitution and the laws.¹⁴

Addressing the issue of territorial integrity and secession in international law, the Supreme Court stated: “While the MOA-AD would not amount to an international agreement or unilateral declaration binding on the Philippines under international law, respondent’s act of guaranteeing amendments is, by itself, already a constitutional violation that renders the MOA-AD fatally defective.”¹⁵

Three key issues were identified during the peace negotiations between the government of the Philippines and the MILF on the MOA-AD: the standard for identifying indigenous people, the geographical scope (and proposed expansion) of the ARMM, and who has the right to control and use natural resources within it.

The standard for identifying indigenous people

The MOA-AD, under paragraph 3 of the Concepts and Principles section, defines ancestral domain and ancestral land as

those held under claim of ownership, occupied or possessed, by themselves or through the ancestors of the Bangsamoro people, communally or individually since time immemorial continuously to the present, except when prevented by war, civil disturbance, force majeure, or other forms of possible usurpation or displacement by force, deceit, stealth, or as a consequence of government project or any other voluntary dealings entered into by the government and private individuals, corporate entities or institutions.

Even before the MOA-AD, the ancestral domain issue had proved divisive nationwide. There was difficulty in reaching a consensus as to which groups in the Philippines qualified as indigenous. In Mindanao, several tribal groups can be identified. It is common knowledge that both Lumads and Moros were the original inhabitants of Mindanao. However, the definition of ancestral domain in IPRA used the phrase “since time immemorial,” which in the case of Mindanao would date back to the sultanates. Acknowledging a historical injustice committed centuries ago to Moros, and relying on the most recent law (IPRA) to lend legality to the establishment of territory for the Moros, has far-reaching implications.

¹⁴ G.R. No. 183591, October 14, 2008, p. 4.

¹⁵ G.R. No. 183591, October 14, 2008, p. 5.

The current geographical scope of the ARMM does not correspond with the territory of the sultanates. Thus, the proposed expansion of the ARMM under the MOA-AD is problematic. It covers part of the territory of the sultanates, whose heirs are living and whose provinces adjacent to the ARMM are predominantly Catholic and opposed to inclusion in an expanded ARMM. Officials of the National Commission of Indigenous Peoples—the government agency primarily responsible for issues relating to indigenous peoples and the titling of their ancestral domains—told an interviewer in 2002 that the question of whether Moros should be considered indigenous people was uncertain and needed further discussion (Caballero 2002).

People in other regions have raised the following questions: If Moros as original inhabitants are indigenous to Mindanao, what about the Lumads, who were also original inhabitants of the region and some of whom, like the Moros, were displaced by warlords and by conflict between the government and other armed groups? Are all original inhabitants of other regions also to be considered indigenous people and, as such, entitled to ancestral domain claims under IPRA? In a region characterized by protracted armed conflict, it would be difficult or impossible to determine who migrated voluntarily and who was forcibly displaced. Moreover, fraudulent land titles abound in the region. Since armed conflict began, there has been no systematic attempt to rectify land records, as government officials often belong to warring clans with old grievances against each other and the ARMM government has been characterized by weak institutions and poor governance.

The proposed expansion of the ARMM

The main objectives of the MOA-AD were to amend the 1989 Organic Act that established the ARMM to expand its geographical scope and give land to the Moros as ancestral domain. It was the most recent in a series of additions to the territory of the ARMM, which ultimately grew to include the provinces of Sulu, Maguindanao, Lanao del Sur, Tawi-Tawi, Zamboanga del Norte, Zamboanga Sibugay, and Basilan (except Isabela City); Marawi City; six municipalities in Lanao del Norte; hundreds of villages in the provinces of Sultan Kudarat, Lanao del Norte, and North Cotabato that voted to become part of the ARMM in 2001; and two municipalities in Palawan. The proposed expansion generated widespread opposition, as many cities, municipalities, and provinces adjacent to the ARMM had refused to join the ARMM twice in the past and many non-Moro indigenous people's ancestral domains are located within the area.

Widespread opposition to the MOA-AD arose among Muslims and Christians alike. Public uproar followed when a major newspaper published a map of the proposed expanded ARMM, which encroached on non-Muslim regions (*Philippine Daily Inquirer* 2008a). According to the heir of the Sultan of Sulu, Sultan Esmail Kiram, the MOA-AD included as ancestral domain territory that was originally part of the Sultanate of Sulu. He questioned the true intention of the government and whether it was encouraging more conflict between Moros and Christians

in Mindanao, while expressing disgust over the lack of prior consultation on the proposed expansion (*Philippine Daily Inquirer* 2008b). Politicians whose jurisdictions were threatened demanded an injunction from the Supreme Court against the signing of the MOA-AD.

The MOA-AD did not mention the Philippine constitution at all but referred instead to a “basic law” (*Philippine Daily Inquirer* 2008a), which created confusion as to whether it referred to the constitution or sharia law. Considering the Organic Act as the constitution of the autonomous region, the MOA-AD appears to be intentionally ambiguous as to its source of authority to cede territory beyond the provisions of the constitution, which requires an amendment of the Organic Act.

Just a few hours before it was due to be signed in Malaysia, the MOA-AD was declared unconstitutional by the Supreme Court because it had not been subjected to popular consultation (*Province of North Cotabato v. GRP*). The court enjoined respondents and agents from signing the MOA-AD and similar agreements in the future. According to Joaquin Bernas, Dean Emeritus of Ateneo Law School in Makati City, Philippines, a mere memorandum of agreement cannot cede the territory of a sovereign state. No territorial dispute, no matter how well-meaning parties to the negotiations are, can be settled when the peace agreement directly contravenes the provisions of the constitution. It would require an amendment of the Organic Act that created the ARMM, or even an amendment of the constitution (*Philippine Daily Inquirer* 2008c), and several amendments to or repeal of laws affecting land, natural resources, and regional government.

Control and use of natural resources

Complicating the dispute over land are the natural resources found on and under the land. In 2002, 29 percent of the ARMM was covered by forest (De La Paz and Colson 2008), while agricultural land accounted for 25.9 percent. Coconut, corn, banana, rubber, coffee, cacao, tubers, roots, and bulbs are key crops in the region (NSO 2008). Both logging and armed conflict have resulted in severe deterioration of forest cover. Forest and other public lands have also been illegally titled as private property, mostly by warlords.

Mindanao, like the rest of the country, is rich in metallic and nonmetallic minerals, including lead, zinc, ore, iron, copper, chromite, magnetite, gold, marble, salt, sand, gravel, silica, clay, and limestone (Mindanao Economic Development Council 2010). Mindanao’s mineral resources account for nearly half of the country’s gold reserves and 83 percent of its nickel reserves (see figure 1). Mindanao’s mineral production amounted to 13.5 billion Philippine pesos in 2004 (approximately US\$240 million), or about 25.5 percent of national output (Neri 2006). The potential for revenue from mineral mining may be even larger given that production has been hampered by armed conflict and by concerns about environmental damage. Furthermore, from 1996 to 1997, the mining industry suffered setbacks, with cases questioning the constitutionality of the Mining Act and the problems and controversies brought about by the passage of IPRA. From

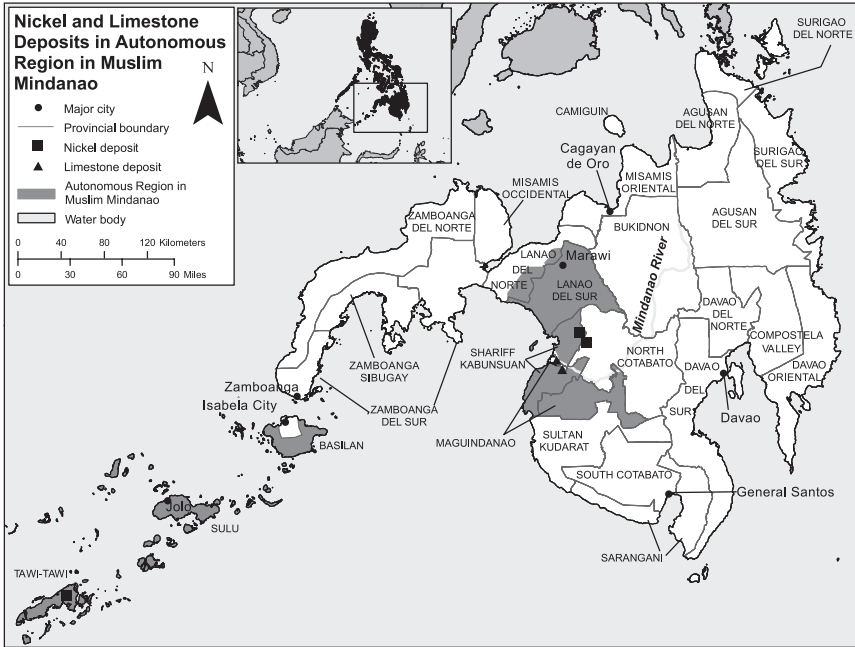


Figure 1. Nickel and limestone deposits in Mindanao

Source: MGB (2010).

2004 to 2005, a rise in global exploration spending and metal prices marked renewed interest of investors in the mining industry.

From the time the IPRA was passed, the mining industry—which the national government under President Arroyo strongly promoted in order to speed up economic growth—has strongly protested its implementation and at one time threatened to lobby Congress for its repeal. The Chamber of Mines, an industry association, warned of the potential that foreign mining firms could withdraw due to the vagueness of the IPRA and insufficient government commitment to the mining industry (Asian Development Bank 2002).¹⁶ In 1998, the National Commission of Indigenous Peoples issued several administrative orders exempting all leases, licenses, contracts, and other forms of concession within ancestral domains existing prior to the promulgation of the implementing rules and regulations of the IPRA from the requirement of free and prior informed consent of indigenous peoples under IPRA.

The claim that the entire ARMM is ancestral land of the Moros is problematic, considering that the ancestral domain argument is used to circumvent not only the regalian doctrine of the constitution but the very provisions of the constitution

¹⁶ One of the challenges of implementing the IPRA is identifying which groups are truly indigenous to a place.

on national territory itself, resulting in the dismemberment of Philippine territory. The objective of the MOA-AD is not just to award certificates of ancestral domain to Moros, but also to allow them to exploit and develop the mineral resources under the land and have trade relations with other countries. Unless the constitution and the Organic Act establishing the ARMM are changed, these issues will remain unresolved. In addition, extensive public consultation must be conducted in adjacent non-Muslim areas that would be affected by the proposed ARMM expansion.

Following the regalian doctrine, the constitution (art. XI, sec. 2) is clear that all land in the Philippines and all minerals underneath it belong to the state. The government's position is that ancestral domain gives indigenous people the right to use surface land but not the resources underneath. However, the MNLF has argued that the MOA-AD was supposed to implement the 1996 peace agreement, which stated that the exploration, utilization, and development of land and minerals in the autonomous region would be vested in the regional autonomous government.

This provision explicitly mentioned strategic minerals, which were to be defined later. The MNLF has contended that both sides should have a say in this definition, and has argued that the government violated the peace agreement by unilaterally identifying these minerals and limiting the autonomous government's jurisdiction over minerals and natural resources through an amendment of RA No. 6734, the Organic Act of the ARMM, by RA No. 9054 (Conde 2001). The government identified the following strategic minerals and other strategic resources as exempt from the ancestral domain agreement: uranium; coal, petroleum, and other fossil fuels; all potential sources of energy, such as lakes, rivers, and lagoons, and national reserves; aquatic resources; and forest and watershed reservations. In enumerating these resources, the government referred to the regalian doctrine in the constitution, which is repeated in other constitutional provisions on territory, national economy, and patrimony.

ARMM officials have expressed their desire to amend laws including RA No. 9054, the Organic Act of the region, so that the regional government can have full control over the region's natural resources. A representative of Lanao del Sur in the Regional Legislative Assembly said that while the ARMM government "has control and supervision over the exploitation, utilization, development and protection of the mines and minerals and other natural resources within its area, it has no control over mining and use of uranium, petroleum, and other fossil fuels, mineral oils, and all sources of energy." He also stated that RA No. 9054 specifically exempted "national reservations already delimited by authority of the central government or national government and those that may be defined by an Act of Congress," depriving the ARMM of "the right to manage their natural resources, specifically their strategic minerals" (*Inquirer Mindanao* 2010).

LESSONS LEARNED

A new peace panel was formed under President Benigno Aquino in 2010. The head of this panel has referred to the need to amend the constitution (Conde 2010), but any proposed amendment of the provisions on national territory is still subject

470 Land and post-conflict peacebuilding

to the approval of the Christian majority in areas proposed for expansion of the ARMM. Local government units that would be affected by the proposed expansion are also likely to vote against it in a plebiscite, setting the peace process back. In 2010, the MILF issued contradictory statements that Moros want to establish their own sub-state and that they are abandoning their bid for an independent state (*Philippine Daily Inquirer* 2010a, 2010b, 2010c).

Ongoing peace negotiations can benefit from the valuable lessons this challenging process has yielded thus far. In negotiating for peace in Mindanao, the parties need to uphold the constitution, specifically the provisions on national territory, patrimony, and economy. No written agreement between the parties can be effectively implemented if territorial boundaries are ambiguous. Land is crucial to the identity, culture, and livelihood of a people, and the land laws governing classification and reclassification, ownership, and transfer are all based on the constitution. In the case of Mindanao, this problem is compounded by the fact that the population is predominantly Christian and expansion of the ARMM is a sensitive, even explosive political issue. Expansion would need the consent of adjacent regions in a plebiscite, as specified in the constitution. Any peace agreement that disregards the constitution would have little chance of succeeding. If a proposal would require a constitutional amendment, this must be made clear during negotiations.

The difference between autonomy and secession must be kept clear. International law sets no rules for secession, but the criteria defining a state, as laid down in the 1933 Montevideo Convention on the Rights and Duties of States, are a permanent population, a defined territory, a government, and the capacity to enter into relations with other states.¹⁷ Any agreement or other legal instrument that grants all of these powers raises questions as to whether it is conferring on an entity the status of a state. The MOA-AD attempted to give all of these powers to the ARMM, but it was never implemented due to the intervention of the Supreme Court. Other Philippine provinces have permanent populations, defined territories, and provincial governments. The reason that the Supreme Court found the MOA-AD unconstitutional was that the memorandum also granted the BJE its own autonomous government, and the capacity to enter into foreign relations with other states. While the MOA-AD ostensibly sought to expand the BJE, the Supreme Court held that the new authority that was granted by the MOA-AD was tantamount to secession, and thus unconstitutional. Secession cannot be disguised as the expansion of the territory of an autonomous region granted by a peace agreement. Any such expansion should be subjected to extensive public consultation among the residents of the areas affected.

Multiplicity of land laws is a major problem in the Philippines, including the ARMM. This problem is exacerbated by the presence of warlords who have been repeatedly accused of land grabbing, and even gaining title to environmentally protected areas.¹⁸ The immediate cancellation of fraudulent and illegal land titles

¹⁷ For the text of the convention, see www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml.

¹⁸ Based on the author's experience.

in ARMM should be a priority to retrieve public lands and protect critical natural resources. This can only be achieved if the warlords and their private armies are disbanded and if warlords are included as parties to the peace negotiations.

Reconciling these claims will require cooperation between the executive branch in Metro Manila and local governments. Seasoned high-level peace negotiators for the government with vast know-how and experience with the parties and issues of the conflict can promote credibility and build confidence in the process, especially when backed by a multidisciplinary group of experts. The MILF must control its own ranks, and particularly rogue members. Warlords should also be included in the peace negotiations. Both parties must participate in negotiations in good faith and with respect for the mutually agreed ceasefire. Whether this will happen remains to be seen. Indeed, a new peace deal between the GRP and the MILF creating a Bangsamoro region with a parliamentary form of government was announced in October 2012, but immediately encountered constitutional issues requiring a long process of amendments to succeed.

REFERENCES

- Agoncillo, T. 1990. *History of the Filipino people*. Quezon City: R.P. Garcia.
- Asian Development Bank. 2002. Indigenous peoples/ethnic minorities and poverty reduction: Philippines. Manila. www.adb.org/sites/default/files/pub/2002/indigenous_phi.pdf.
- Bacaron, M. A. 2010. Indigenous conflict resolution mechanisms in Mindanao: Is their institutionalisation the answer? *Asian Journal of Public Affairs* 3 (1): 49–59.
- Bauzon, K. E. 1999. The Philippines: The 1996 peace agreement for the southern Philippines; An assessment. *Ethnic Studies Report* 17 (2): 253–280.
- Biehl, E. D. 2009. The Philippine conflict in Muslim Mindanao and the Sulu Archipelago from the perspective of secessionist theory [Der philippinische Konflikt in Mindanao und dem Sulu-Archipel aus secessionstheoretischer Perspektive]. *Journal of Current Southeast Asian Affairs* 1:97–99.
- Brillantes, A., and J. Tiusongco. 2005. Institutional and politico-administrative responses to armed conflicts. *Philippine Journal of Public Administration* 49 (1–2): 1–39.
- Caballero, E. 2002. Basis of conflict in ARMM in relation to land and resources. Technical report. Philippine Environmental Governance Project, Department of Environment and Natural Resources, and United States Agency for International Development. http://ecogovproject.dnr.gov.ph/Downloads/Technical_reports/BASIS_OF_CONFLICT_IN_ARMM.pdf.
- Caballero-Anthony, M. 2007. Revisiting the Bangsamoro struggle: Contested identities and elusive peace. *Asian Security* 2:141–161.
- Conde, C. 2001. New ARMM law to deepen Mindanao's troubles. *Bulatlat*, July 22–28. <http://bulatlat.com/archive1/023ARMM%20Law.html>.
- . 2010. Marvic Leonen: Aquino's noteworthy choice of Mindanao peace negotiator. *Dateline Manila*, July 16. <http://asiancorrespondent.com/carlosconde/aquino%E2%80%99s-noteworthy-choice-of-mindanao-peace-negotiator>.
- Constantino, R. 1975. *The Philippines: A past revisited*. Quezon City: Tala Publication Services.
- Coronel Ferrer, M. 2001. Framework for autonomy in Southeast Asia's plural societies. Working Paper 13. Singapore: Institute of Defense and Strategic Studies. www.rsis.edu.sg/publications/WorkingPapers/WP13.pdf.

472 Land and post-conflict peacebuilding

- David, R., Jr. 2003. The causes and prospect of the southern Philippines secessionist movement. Master's thesis, Naval Postgraduate School.
- De La Paz, M. C. G., and L. Colson. 2008. Population, health, and environment issues in the Philippines: A profile of the Autonomous Region in Muslim Mindanao (ARMM). Washington, D.C.: Population Reference Bureau.
- Dolan, R. 1991. *Philippines: A country study*. Washington, D.C.: Federal Research Division, Library of Congress.
- Erasga, D. 2008. Ancestral domain claim: The case of the indigenous people in Muslim Mindanao (ARMM). *Asia-Pacific Social Science Review* 8 (1): 33–44.
- Fast, J., and J. Richardson. 1979. *Roots of dependency*. Quezon City: Foundation for Nationalist Studies.
- Fowler, D. 1985. The Moro problem: An historical perspective. Master's thesis, Naval Postgraduate School.
- Gaspar, K. 2000. *The Lumad's struggle in the face of globalization*. Davao City: Alternate Forum for Research in Mindanao.
- Gershman, J. n.d. Self-determination in conflict profile: Moros in the Philippines. *Foreign Policy in Focus*. Washington, D.C.: Interhemispheric Resource Center / Institute for Policy Studies. www.scribd.com/doc/20589646/Moros-in-the-Philippines.
- Gomez, H. 2001. *The Moro rebellion and the search for peace: A study on Christian-Muslim relations in the Philippines*. Zamboanga City: Silsilah Publications.
- Gowing, P. 1970. *Muslim Filipinos: Heritage and horizon*. Quezon City: Foundation for Nationalist Studies.
- Gutierrez, E., and S. Borrás. 2004. *The Moro conflict: Landless and misdirected state policies*. Washington, D.C.: East-West Center.
- Honasan, G. 2000. On peace and insurgency: President Estrada and the conflict in Mindanao. *Kasarinlan* 15 (2): 237–244.
- Inquirer Mindanao*. 2008. Ancestral domain vs regalian doctrine. October 6.
- . 2010. ARMM execs seek control of natural resources. March 4.
- Jacinto, A. 2007. Manila resumes peace talks with MILF. *Arab News*, October 24. www.arabnews.com/node/304908.
- Jubair, S. 1997. *A nation under endless tyranny*. 2nd ed. Lahore, Pakistan: Islamic Research Academy.
- Kamlian, J. 2003. Ethnic and religious conflict in southern Philippines: A discourse on self-determination, political autonomy and conflict resolution. Islam and human rights fellow lecture, School of Law, Emory University.
- Majul, C. A. 1973. *Muslims in the Philippines*. Quezon City: University of the Philippines Press.
- McFerson, H., ed. 2002. *Mixed blessing: Impact of the American colonial experience on politics and society in the Philippines*. Vol. 41 of *World View of Social Issues*. Westport, CT: Greenwood Press.
- McKenna, T. 1998. *Muslim rulers and rebels: Everyday politics and armed separatism in the southern Philippines*. Berkeley: University of California Press.
- . 2008. *The origins of the Muslim separatist movement in the Philippines*. New York: Asia Society. <http://asiasociety.org/countries-history/conflicts/origins-muslim-separatist-movement-philippines>.
- MGB (Mines and Geosciences Bureau, Republic of the Philippines). 2010. Geology and mineral distribution map of the Autonomous Region in Muslim Mindanao. Department of Environment and Natural Resources. Quezon City.

- Miller, S. C. 1990. *Benevolent assimilation: The American conquest of the Philippines, 1899–1903*. New Haven, CT: Yale University Press.
- Mindanao Economic Development Council. 2010. Mindanao. www.medco.gov.ph/mindanao.asp.
- Neri, R. 2006. NEDA's economic and social report on Mindanao. Presentation to Joint RDC-Cabinet meeting, July 8.
- NSO (National Statistics Office, Republic of the Philippines). 2008. A review of the agriculture sector in autonomous region in Muslim Mindanao. www.census.gov.ph/data/sectordata/sr04119tx.html.
- Pertierra, R., and E. F. Ugarte. 2002. American rule in the Muslim south and the Philippine hinterlands. In *Mixed blessing: The impact of the American colonial experience on politics and society in the Philippines*, ed. H. M. McFerson. Westport, CT: Greenwood Press.
- Philippine Daily Inquirer*. 2008a. Analysis: Self-inflicted dismemberment. August 8.
- . 2008b. Muslims, Christians to stage protests vs. govt-MILF deal. August 3.
- . 2008c. The controversial GRP-MILF MOA. August 11.
- . 2010a. MILF abandons bid for independent state. September 23.
- . 2010b. MILF says gov't needs cha-cha to form sub-state for Muslims. September 23.
- . 2010c. Moros want own "sub-state." September 23.
- Quevedo, O. 2003. Injustice: The root of conflict in Mindanao. Paper presented at the 27th General Assembly of the Bishops' Businessmen's Conference, Taguig, Metro Manila Philippines.
- Rafael, V. 1994. *Contracting colonialism: Translation and Christian conversion in Tagalog society under early Spanish rule*. Durham, NC: Duke University Press.
- Salman, M. 2001. *The embarrassment of slavery: Controversies over bondage and nationalism in the American colonial Philippines*. Berkeley: University of California Press.
- Stavenhagen, R. 2003. *Human rights and indigenous issues*. Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples. New York: United Nations Economic and Social Council, Commission on Human Rights.
- Tanggol, S. 2005. Democratization, governance and poverty alleviation in the autonomous region in Muslim Mindanao. *Philippine Journal of Public Administration* 49 (1–2): 40–58.
- Tauli-Corpus, V., and E. Alcantara. 2005. *Engaging the U.N. Special Rapporteur on indigenous people: Opportunities and challenges; The Philippine mission of the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, December 2–11, 2002*. Baguio City: Tebtebba Foundation.
- Tolibas-Nuñez, R. 1997. *Roots of conflict: Muslims, Christians and the Mindanao struggle*. Makati City, Philippines: Asian Institute of Management.
- Tongson, E., and T. McShane. 2004. Securing land tenure for biodiversity conservation in Sibuyan Island, Romblon, Philippines. Paper presented at the EGDI and UNU-WIDER Conference, "Unlocking Human Potential: Linking the Informal and Formal Sectors," September 17–18.
- Tumirez, A. 2005. *Ancestral domain in comparative perspective*. Washington, D.C.: United States Institute of Peace.
- Usman, E. K., and G. D. Kabling. 2007. Philippines: Muslim leaders welcome peace move. *Manila Bulletin*, August 14.
- Vargas, M. 2004. Indigenous groups decry 7 years of IPRA law. *Bulatlat*, October 24–30. www.bulatlat.com/news/4-38/4-38-indigenous.html.

