

THE SULU ARCHIPELAGO AND THE PHILIPPINE PEACE PROCESS

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EXECUTIVE SUMMARY

The plebiscite on a new law to overhaul autonomy arrangements in the southern Philippines—if and when it happens—will be a crucial test of support for the Moro Islamic Liberation Front (MILF) outside of its stronghold in central Mindanao. Ruling politicians in the ethnically and geographically separate Sulu archipelago are wary of the MILF and the peace agreements it negotiated. President Benigno Aquino III had assumed he could lean on them to rally their constituents to vote in favour. Now weakened by a botched counter-terrorism operation in January 2015, the president is struggling to implement the peace agreements he hoped would be his legacy. Political interests within Muslim Mindanao will determine the outcome of the plebiscite, with much hinging on the stance of one man: Sakur Tan.

Congress must pass the Bangsamoro Basic Law (BBL) to implement the peace agreements. Its key provisions relate to the core territory, a plebiscite to determine the wish of residents to opt in or out, transitional arrangements, the adoption of a parliamentary system of government, powers over local governments; and fiscal autonomy. The new region, to be called “the Bangsamoro” will replace the existing Autonomous Region of Muslim Mindanao (ARMM). This should be the stronger, more powerful and better funded regional government the MILF and the rival Moro National Liberation Front (MNLF) have always wanted.

Before the counter-terrorism operation in Mamasapano, there was a risk that three of the five provinces in ARMM—Basilan, Sulu and Tawi-Tawi, which make up the Sulu archipelago—might opt out, as ruling families worried that their power bases could be undercut. The Aquino government had a strategy to deal with this likely opposition. It counted on the desire of the provincial governors, all professing allegiance to the ruling Liberal Party, to stay in the good graces of a popular president. If that failed, the president could use stronger pressure tactics.

After the Mamasapano operation ended in the deaths of 44 police, mostly at the hands of the MILF, as well as 17 MILF fighters and several civilians, President Aquino’s support seemed to collapse. Congress suspended for several weeks its deliberations on the BBL, which it had been set to pass in February, and criticisms of the bill suddenly had more traction. In the best case scenario, Congress will still pass a modified version by June 2015, with the plebiscite to follow soon after.

If the plebiscite does go forward, the MILF and the Aquino government need a better strategy for the islands. The MILF is hoping that grassroots support will overcome possible elite opposition, but it has no base in the Sulu archipelago, where sympathy for the MNLF is widespread and its supporters are loath to see ARMM dismantled. Ethnic pride is another factor. Even as the MILF emphasises the umbrella Bangsamoro identity, the Tausug of the archipelago worry about being swamped by the Maguindanao and Maranao that dominate the MILF stronghold of central Mindanao. Many Tausug feel that their issues, including the irredentist claim to Sabah, will be ignored in an MILF-led government.

While Congress deliberates, the MILF and President Aquino and his advisers should shore up support for the BBL in the islands, regardless of what stance the provincial governors eventually take. The MILF should continue reaching out directly to the MNLF in Sulu to ensure they are part of discussions with the Philippine government. The MILF, the Aquino government and civil society groups need to prepare tailored outreach campaigns to address concerns raised about the BBL in specific constituencies. The Aquino government should build a wider alliance of elites in the island provinces by emphasising the advantages of the new parliamentary system, which has broad appeal across the Bangsamoro. And finally, the MILF should assess carefully whether and how to cut a deal with Sakur Tan to allay his concerns about joining the Bangsamoro.

This paper examines political dynamics in the Sulu archipelago leading up to and after the Mamasapano incident. It looks at the complex interests of the different stakeholders and the

resistance to change. It also assesses where and why the peace agreements have gained support in the islands, and what this means for the plebiscite, should it happen before President Aquino leaves office. It is based on a visit to the Philippines in March 2015 and extensive interviews in Cotabato City, Zamboanga City and Manila.

I. INTRODUCTION

The Philippine government and the Moro Islamic Liberation Front (MILF) face serious obstacles in implementing the Framework Agreement on the Bangsamoro (FAB) and Comprehensive Agreement on the Bangsamoro (CAB), signed in 2012 and 2014 respectively. If successfully enacted in domestic law, they offer a mechanism for overcoming longstanding historical, regional and ethnic divisions, including between the MILF stronghold of central Mindanao and the three provinces that make up the Sulu archipelago: Basilan, off the tip of the Zamboanga peninsula; Sulu, comprising Jolo and its surrounding islands; and distant Tawi-Tawi.

Implementation, however, depends on two factors. First is passage by the Philippine Congress of the Bangsamoro Basic Law (BBL), enshrining key provisions of both agreements, in a form acceptable to the MILF. A botched counter-terrorism operation in January 2015 in the peace agreee of Mamasapano, Maguindanao province, that led to a deadly clash between government and MILF forces has made it harder for the president to push the legislation through, although his allies in the House of Representatives were able to minimise amendments to the bill in mid-May. The Senate may prove more difficult. Second is a yes vote from the islands in a plebiscite to be administered in all proposed areas of the Bangsamoro after the BBL is passed. Whether the archipelago opts in depends largely on Sakur Tan, a politician who has controlled Sulu province since 2007. He is hostile towards the MILF and remains sceptical of the value of new autonomy arrangements.

Both the MILF and the Philippine government know that bringing the Sulu archipelago on board is key. If they fail, the Bangsamoro will be smaller than the existing Autonomous Region of Muslim Mindanao (ARMM) which it will replace, raising questions about what the MILF has been able to deliver politically after decades of armed insurgency. The MILF does not want to repeat the history of the organisation it broke away from, the Moro National Liberation Front (MNLF). The MNLF strengthened ARMM but fell short of achieving real autonomy. The framework and comprehensive agreements, if enacted through the BBL, will ensure the Bangsamoro has greater powers. But many traditional politicians in the islands, including the provincial governors, are not and never have been enthusiastic about a peace deal that would give the MILF power over their territory.

The new regional government, likely run by the MILF or its allies, will have more money and greater oversight of provincial affairs. Traditional politicians from the Sulu archipelago, most of whom are ethnic Tausug, want to preserve their own power and worry about having access to a fair share of regional resources. They feel threatened by the Aquino government's rhetoric about political reform, and the president's decision to partner with the MILF to improve governance. The peace agreements, by creating a strong Bangsamoro, may weaken them and open politics to new players. This in turn could help ensure that the new region's bigger budget will be used to improve social service delivery and economic development, rather than further enrich an unaccountable elite. The archipelago's current provincial governors, who have been able to pursue and protect their interests within ARMM, are thus worried about the proposed new region. Historically, they have relied on their ties with the presidential palace in Manila to wield power; a robust Bangsamoro government would force them to engage with central Mindanao instead.

As of early 2015, the ruling politicians in the Sulu archipelago still wanted to be seen by President Aquino as supporting the peace agreements. A strong relationship with the executive branch provided access to additional funds from Manila, political endorsements ahead of elections, and an ability to lobby for friends and family for government appointments. The peace process was a priority for the president, and the provincial governors had no choice but to go along with it in public because they are all—for political expediency rather than any deeper

loyalty—members of Aquino’s Liberal Party. In private, however, they had serious reservations. The MILF had expected the president would simply pressure the provincial governors to vote yes.

Then, suddenly, the whole process was upended. On 25 January 2015, just as Congress was winding down its deliberations on the BBL, 44 elite police commandos and seventeen MILF fighters were killed in a poorly planned counter-terrorism operation in Mamasapano, Maguindanao. The Mamasapano incident was the first serious clash between government and MILF forces in central Mindanao since 2008-2009 and came at the worst possible time. The target of the operation, the Malaysian extremist Zulkifly bin Hir alias Marwan, had been hiding out in the southern Philippines for years, and in the months before the raid he was with a breakaway group from the MILF, the Bangsamoro Islamic Freedom Fighters (BIFF), that rejects the peace process. The incident raised doubts about the MILF’s bona fides in talking peace; its ability to control its fighters; and the desirability of concessions to the MILF made by the Office of the Presidential Adviser on the Peace Process (OPAPP), which negotiated on behalf of the Philippine government. The president’s approval ratings went into freefall and members of Congress, especially in the Senate, were quick to tap into anti-Moro, nationalist sentiment ahead of the 2016 elections.

Before Mamasapano, there was little political mileage to be gained from openly opposing the peace process; suddenly there was plenty. The consensus that President Aquino had forged in support of a deal with the MILF began fraying. Immediately after the incident, the concern was no longer whether the Sulu archipelago would join the Bangsamoro. It was whether Congress would kill the BBL entirely. When the committee within the House of Representatives leading deliberations on the bill voted on its provisions from 18 to 20 May, the Aquino administration cracked the whip and ensured that the most important powers granted to the Bangsamoro were retained in the version of the bill that is now going to a plenary session. The MILF and President Aquino and his advisers want the BBL as strong as possible; many of the ruling politicians in the Sulu archipelago would be happier with a weaker version. Amid the uncertainty of the first few months of 2015, the calculations of all parties for the plebiscite shifted.

The relationship between the MILF and the traditional politicians of the Sulu archipelago matters in the short term because of the plebiscite. It is also crucial in the long term. Whether the peace agreements improve governance and security will depend on the island provinces and central Mindanao working together, peacefully, through the region’s new institutions to overcome historical and ethnic divisions within the Bangsamoro.

II. KEY PROVISIONS AND IMPLEMENTATION OF THE PEACE AGREEMENTS

The two peace agreements on the Bangsamoro laid out the steps for creating a new autonomous region and outlined its powers. The following five aspects are crucial to understanding why the views of the Sulu archipelago’s elite matter, and how they could be affected by the changes envisioned.

The core territory and the plebiscite. The 2012 framework agreement defined the core territory of the Bangsamoro as the five provinces of ARMM (Maguindanao, Lanao del Sur and the three island provinces) plus Cotabato City in central Mindanao and Isabela City on Basilan. It also includes six municipalities in Lanao del Norte and 39 villages (*barangay*) in North Cota-

bato that voted to join ARMM in a 2001 plebiscite.¹ Contiguous cities and provinces may opt in provided there is public support.² The island provinces are currently less than 40 per cent of ARMM's population; they will make up an even smaller percentage in the Bangsamoro because the core territory includes a larger swath of central Mindanao.³

All registered voters in the core territory will get a chance to express their views in the plebiscite.⁴ They will be asked, "Do you approve of the BBL?"⁵ The majority of registered voters in each province or city in the island provinces, Maguindanao and Lanao del Sur, and in each municipality or *barangay* in Lanao del Norte and North Cotabato must be in favour in order to join.⁶ This means the plebiscite is simultaneously an opportunity to opt in and a chance for these areas to opt out.

Transitional arrangements. The framework agreement emphasised inclusivity to downplay the MILF's ownership of the peace agreements. It made the fifteen-member Bangsamoro Transition Commission responsible for drafting the BBL. In early 2013, the MILF appointed eight commissioners, including the chair, and the government appointed seven.⁷ The government appointees were drawn broadly from the Bangsamoro community, with an emphasis on the islands and individuals close to the MNLF to balance the MILF contingent from central Mindanao.⁸

The framework agreement stated that after the BBL is passed by Congress and ratified in a plebiscite—by mid-2015 at the latest—ARMM will be dissolved and the Bangsamoro Transition Authority will take over.⁹ Led by the MILF and appointed by the president, the transition authority will be responsible for drafting crucial legislation such as the electoral code, the revenue code and the civil service code for the new region.¹⁰ The first regular elections under the new system will be held in 2016, synchronised with the national general elections, although some influential voices have suggested postponing it.¹¹ The MILF believes that its new political party,

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- 1 ARMM was created when Congress passed Republic Act 6734 in 1989; in a plebiscite held the same year, Maguindanao, Lanao del Sur, Tawi-Tawi and Sulu voted to join. In an effort to implement the 1996 final peace agreement with the MNLF, Congress passed Republic Act 9054 in 2001. In a subsequent plebiscite, Basilan and Marawi City (in Lanao del Sur) joined. Cotabato City and Isabela City voted no in both plebiscites.
 - 2 The framework agreement offers two ways of joining—at the time of the plebiscite on the BBL and in perpetuity. For the former, constituents in all other "contiguous areas" will vote if there is a resolution by the local government unit or a petition of at least 10 per cent of registered voters. For the latter, there must be a petition of 10 per cent of registered voters and then a plebiscite must be held in which the majority votes in favour. Draft Bangsamoro Basic Law, Article III, Section 2(d) and 3. The Ad Hoc Committee modified the phrase "contiguous areas" as explained below.
 - 3 According to the May 2010 census, there are 1,333,929 inhabitants in the islands (excluding Isabela City) and 2,066,186 in Maguindanao and Lanao del Sur (excluding Cotabato City).
 - 4 This provision, included at the Aquino government's insistence, is different than the 2001 vote, where only residents in areas beyond the original core territory took part in the plebiscite.
 - 5 Draft Bangsamoro Basic Law, Article XV, Section 6.
 - 6 Draft Bangsamoro Basic Law, Article XV, Section 3.
 - 7 Framework Agreement on the Bangsamoro, Section VII.
 - 8 Among the fifteen commissioners, six were from their islands, but none from Tawi-Tawi. They included: Abdulla Camlian, an MILF appointee, originally from Basilan, of Sama-Bangingi-Tausug ethnicity and chair of the MILF technical committee; Pedrito Eisma, a government appointee, the only Christian, originally from Basilan and formerly a municipal counsellor for Isabela City and host of local news program; Raissa Jajurie, an MILF appointee, originally from Sulu, of Tausug ethnicity, and a practicing human rights lawyer who defends Moro political detainees; Akmad Sakkam, a government appointee, originally from Sulu and an experienced career diplomat; Fatmawati Salapuddin, a government appointee, of Tausug ethnicity, originally from Sulu and active in civil society and development at local level and at the National Commission on Muslim Filipinos; and Asani Tammang, a government appointee, of Tausug ethnicity, originally from Sulu and a seasoned politician who served as congressman for the 2nd district of Sulu from 1992-2001. Profiles taken from biographical information posted on OPAPP's website.
 - 9 The MILF originally wanted a much longer transition and hoped that it would run the transition authority for at least one year, although this is not specified in the peace agreements.
 - 10 Draft Bangsamoro Basic Law, Article XVI, Sections 1-13.
 - 11 For example, former government negotiator Jesus Dureza supports postponing the first regular elections until 2019, which would leave the MILF leadership in charge of the new region for much longer than originally envisioned. "Dureza: extend Bangsamoro transition period to 2019", Mindanews.com, 15 September 2014. The MILF leadership reportedly favour this but are reluctant to say so publicly.

the United Bangsamoro Justice Party (UBJP), will win a majority, getting a boost if all goes well from the transition authority's accomplishments and benefiting from the MILF's popularity in central Mindanao.¹²

Parliament and the chief minister. In the negotiations for the framework agreement, the MILF insisted on a parliamentary structure for the Bangsamoro. A chief minister elected by the legislative branch and accountable to it will run the regional government, in contrast to ARMM and indeed the Philippine presidential system in which voters elect the chief executive directly and separately from Congress. As fleshed out in the comprehensive agreement and eventually the BBL, the Bangsamoro parliament will have a minimum of 60 seats, with 50 per cent elected from a party-list system open only to regional political parties, 40 per cent elected by district, and the remaining 10 per cent allocated to under-represented sectors.¹³

The islands will have thirteen district seats, while central Mindanao will have nineteen district seats.¹⁴ The larger number of seats and voters in central Mindanao will give the edge to a chief minister from the MILF heartland, but a candidate from the islands could win with a coalition involving some members from Maguindanao and Lanao, or with the backing of regional parties. The same goes for removing the chief minister—coalition-building will be key.¹⁵ The MILF champions the parliamentary system as a means of levelling the political playing field, encouraging political party formation and lessening Manila's influence over the regional government.

Powers over the provinces and municipalities. The Bangsamoro will have more extensive powers than ARMM, which could put it in conflict with provinces and municipalities granted separate powers under the 1991 local government code.¹⁶ Local governments receive a major central government allocation called the internal revenue allotment and have oversight of the police. The framework agreement stated that the Bangsamoro will not diminish these powers unless changes are necessary to promote "good governance"—a large loophole.¹⁷ Yet the new region clearly will have more influence than ARMM over governors and mayors with the creation of a Bangsamoro police and other institutions, such as its own audit body.

The MILF believes that corruption and poor leadership at the local level perpetuate violence and underdevelopment, for which real regional autonomy is the answer. The traditional politicians say the same about the MILF and jealously guard their powers under the local government code. In the past, they evinced little interest in ARMM unless they were running it; their attitude towards the Bangsamoro will likely be similarly shaped by self-interest.

Fiscal autonomy and the block grant. A major source of revenue for the Bangsamoro will be a block grant transferred from the central government that will not be less than ARMM's last budget prior to its dissolution.¹⁸ The Bangsamoro ought therefore to be more independent and better financed than ARMM, without cutting into the internal revenue allotment that provinces

12 IPAC interview with Chairman Murad Ebrahim, Camp Darapangan, 16 March 2015. Murad wants the MILF to run the new region for the first term so it has time to fully implement its vision of autonomy.

13 Two seats each for non-Moro indigenous people and "settlers" (Christians) plus one seat for women. See draft Bangsamoro Basic Law, Article VII, Section 5. The Ad Hoc Committee in the House of Representatives amended this section to include an additional reserved seat for youth (18-25).

14 This is assuming all areas in the core territory vote for inclusion. Draft Bangsamoro Basic Law, Article VII (The Bangsamoro Government), Sections 4-27.

15 The election of the chief minister is by majority vote, including through a runoff if necessary. Removal of the chief minister requires a higher threshold: a two-thirds vote of no confidence. Draft Bangsamoro Basic Law, Article VII, Sections 28-34.

16 This is Republic Act 7160. See www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html.

17 "The privileges already enjoyed by the local government units under existing laws shall not be diminished unless otherwise altered, modified or reformed for good governance pursuant to the provisions of the Bangsamoro local government code." Framework Agreement on the Bangsamoro, Section I, Part 3.

18 Draft Bangsamoro Basic Law, Article XII. The block grant is more like the internal revenue allotment provinces and municipalities receive than ARMM's current budget, which is instead part of the budget of the national government.

and municipalities receive. The question is how this extra money will be spent and whether the islands will get a fair share if the Bangsamoro government is controlled by the MILF. Under ARMM, the province represented by the regional governor generally received the most funds.

In drafting the BBL, the Bangsamoro Transition Commission took the peace agreements and added important details. OPAPP and the president's closest advisers then vetted the draft law to ensure it was compatible with the constitution before submitting it to Congress in September 2014.¹⁹ This was well behind the schedule the MILF had wanted.²⁰

Up until this point, the MILF and the executive branch made all the important decisions regarding the terms of the peace agreements. Because the constitution requires the legislative branch to pass a law to create an autonomous region, decision-making power shifted to Congress.²¹ The MILF hoped, however naively, that the House of Representatives and the Senate would stay true to the word and spirit of the peace agreements during their deliberations. If there were too many revisions that weakened the autonomy package, it would be harder to campaign for a yes vote in the plebiscite.

The House of Representatives convened an Ad Hoc Committee, led by Cagayan de Oro representative Rufus Rodriguez, to lead deliberations on the bill. The committee has 75 members, 68 from Mindanao. Public hearings, held in Manila and throughout the country, began in November 2014 with many from the Ad Hoc Committee present.²² Even in areas outside Mindanao, the hearings were predominantly attended by Muslims, as the bill at the time was broadly perceived as their issue. The broader Philippine public seemed reconciled to the idea that Congress would pass the legislation sooner or later.²³ At the beginning of 2015, the Ad Hoc Committee was wrapping up its hearings and was going into executive sessions to prepare its report before the BBL went to plenary. The Senate committee meanwhile had been conducting its own hearings, but with only the chair, Ferdinand "Bongbong" Marcos Jr, and Mindanao Senator Teofisto Guingona III in attendance. One scenario was that the Senate committee would simply adopt the lower house's report, accelerating passage through Congress.

After the Mamasapano incident, however, deliberations on the bill were suspended and Congress is now only expected to pass the BBL, if at all, by June at the earliest. Even before everything ground to a halt for several weeks, some revisions were likely. One member of the Bangsamoro Transition Commission noted that changes were inevitable because Congressman Rodriguez and his colleagues were hearing many criticisms as they travelled around the country.²⁴

The parliamentary system—which the Aquino government viewed as a major concession—proved less controversial than other parts of the bill. Several members of Congress voiced concern over the duplication within the Bangsamoro of five national bodies set out in the constitution: the Commission on Elections (Comelec), the Commission on Audit, the Civil Service Commission, the Commission on Human Rights and the Office of the Ombudsman. Congressman Rod-

19 The final drafting of the BBL took place in closed door negotiations between President Aquino's executive secretary, Paquito Ochoa, the presidential adviser on the peace process, Teresita "Ging" Deles, and chief presidential legal counsel, Ben Caguioa; and on the MILF side Mohagher Iqbal, the head of the Cotabato City-based Institute for Bangsamoro Studies, Abhoud Syed Lingga, and longstanding MILF technical advisor and son of the grand mufti of central Mindanao, Mike Pasigan. IPAC interview with a member of the International Contact Group, Manila, 11 March 2015.

20 IPAC interview with an MILF technical advisor, Cotabato City, 15 March 2015.

21 The executive branch has had to be careful not to overstep its mandate in negotiating with the MILF. The Supreme Court ruled in 2008 that President Aquino's predecessor, Gloria Macapagal Arroyo, had exceeded her authority when her negotiators initialed the failed Memorandum of Agreement on Ancestral Domain (MOA-AD).

22 IPAC interview with Congressional staff, Manila, 23 March 2015.

23 IPAC interview with OPAPP staff, Manila, 25 March 2015. Polling by the Social Weather Stations revealed that from November 2012 to June 2014, disapproval of the framework agreement hovered between 17 to 27 per cent. After the Mamasapano incident, disapproval of the BBL increased to 48 per cent. "Filipino public opinion on the Bangsamoro Basic Law (BBL) and the Mamasapano incident," Social Weather Stations, Institute of Islamic Studies and the Asia Foundation, copy of a presentation made 15 May 2015 at the University of the Philippines.

24 IPAC interview with a member of the Bangsamoro Transition Commission, Manila, 23 March 2015.

riguez argued that while these bodies could create their own regional offices, Congress could not do so.²⁵ He and other members of the Ad Hoc Committee also had problems with the concept of a Bangsamoro police, because they felt the bill did not make clear they are formally part of the Philippine National Police. Christian politicians on the fringes of the Bangsamoro, notably in Zamboanga City in Western Mindanao, are unhappy about contiguous areas being perpetually able to opt in, which they argue would be destabilising.

The MILF expected President Aquino to use his popularity and influence over Congress to keep any changes to the BBL to a minimum to ensure a robust regional government, just as the MILF wanted. This worried the politicians in the islands, and once the public hearings were underway, there were signs of increasing recalcitrance.

III. THE TRADITIONAL POLITICIANS AND THE STRATEGY FOR THE PLEBISCITE

The ruling politicians from the Sulu archipelago were not likely to join the Bangsamoro of their own accord as they have never seen eye to eye with the MILF. The MILF, for its part, never planned an extensive pre-plebiscite campaign in the islands because these politicians also control election outcomes. Instead, the Aquino government believed it could make sure the provincial governors mobilised a yes vote through a combination of carrots and sticks. It was never clear exactly what sticks they had in mind, but one option would be to threaten to use the powers of the Ombudsman and the Commission on Audit to launch investigations into book-keeping and illicit economic activity in the islands. As one Sulu leader observed, “There are no warlords whose hands are clean.”²⁶ There was no backup plan if presidential pressure failed.

The strategy was a strange fusion of old and new politics. Manila dictating the desired outcome for the plebiscite fits with well-established patterns of patronage politics. The president had already demonstrated he was not above using the central government’s money to get his way in Mindanao. When he wanted to postpone the ARMM elections in 2011 and appoint Mujiv Hataman of Basilan—a personal friend—as the regional governor, the traditional politicians acquiesced and in turn received an infusion of cash for development projects.²⁷ But in all other respects, the logic of the peace process under reform-minded Aquino ran in the opposite direction: the peace agreements were meant to usher in a political system that would be cleaner, fairer, and more representative of the diverse communities that live within the Bangsamoro.

Pressuring the traditional politicians meant pressuring the provincial governors. The Sahalis in Tawi-Tawi, the Akbars on Basilan, and the Tans in Sulu have been in power for close to a decade or more.²⁸ The Aquino government believed that the concentration of power in Tawi-Tawi and Sulu was not necessarily a bad thing for the plebiscite; the president would get a yes vote provided the governors—all from his party—were willing to oblige. The problem is they could always decide to switch parties before the plebiscite and before the filing of certificates of candidacy for the 2016 polls opens in October. This would give them more leeway to protect their long-term interests and campaign for a no vote.

To understand why the strategy of relying on the governors was problematic, even before

25 He told the press in April, “As of now, I’m still of the belief that there can be no interference with the [duty of the Constitutional] commissions. The Constitutional commissions can make their own regional offices, enlarge their operations there and their powers and that’s perfectly within their duty, but Congress cannot determine, expand or create offices and place them under the commissions. “House panel head firm on unconstitutionality of some BBL provisions”, GMA News, 27 April 2015.

26 IPAC interview with a member of a political family from Sulu, 16 March 2015.

27 One mayor from Sulu province said that he received 1.5 times his internal revenue allotment for development projects in 2013-2014. IPAC interview with a mayor from Sulu, Manila, 25 March 2015.

28 As elsewhere in the Philippines, extended families dominate politics. See the edited volume on political violence and power by Alfred McCoy, *An Anarchy of Families: State and Family in the Philippines* (University of Wisconsin Press, 2009).

the Mamasapano incident, it is essential to know who these politicians are, the sources of their strength, and what they might want in the future.

A. *Tawi-Tawi*

The political elite of Tawi-Tawi are almost all ethnic Tausug from Sulu, although most of the inhabitants are from a different, smaller ethnic group, the Sama.²⁹ The main political rivalry in the province is between the Sahalis and the Matbas. Recent years have seen the Sahali family ascendant following the death of Hadjiril “Gerry” Matba, a former MNLF commander who switched sides and joined the government in the 1970s, eventually serving as governor of Tawi-Tawi for a decade, from 1988 to 1998.

The Sahali patriarch, Sadikul Sahali, has since served as governor for four terms, transferring power to his children in the 2013 mid-term polls, when Nurbert, the son, was elected governor and Ruby, the daughter, became a congresswoman.³⁰ Both are in their thirties. Ruby has the dubious honour of being the second richest member of Congress from ARMM, with a net worth of 173.7 million pesos (\$3.9 million).³¹ Rashidin Matba, the son of Gerry Matba, ran against Nurbert Sahali for governor in 2013 and lost; the other challenger was Nur Jaafar, who attempted to return to provincial politics after three terms as the representative in Congress.³² Rashidin previously served as governor from 2001-2004, after the death of his father.

Tawi-Tawi has historically been on the margins of the insurgency in the southern Philippines. Compared to the other two island provinces or central Mindanao, it has experienced less fighting between insurgents and government forces. Economically, its lifeblood is trade with nearby Sabah in eastern Malaysia rather than with mainland Mindanao. Tawi-Tawi is too small to have much clout within ARMM and this would be no different in the Bangsamoro. For these reasons, changes to autonomy arrangements will affect it the least. Tawi-Tawi is unlikely to gain much by joining the Bangsamoro or to lose much by staying out. The Sahalis also appear not to have ambitions beyond their own province; regional politics only matters to them insofar as their ability to run Tawi-Tawi might be affected. The Aquino government believed they were “biddable” with regard to the plebiscite.³³

B. *Basilan*

A power struggle between the Akbars and the Hatamans has dominated Basilan’s politics in recent years. For close to ten years (1998-2007), Wahab Akbar, a former MNLF member who became a charismatic politician, ran the province. He had strong, controversial ties to the Abu Sayyaf Group (ASG), which broke off from the MNLF in 1991 and was once seen as an al-Qaeda

29 Tawi-Tawi became a separate province from Sulu in 1973; the first governor was in fact Sama rather than Tausug. On the tense relations between the Sama and the Tausug, see Patricia Horvatic, “The Martyr and the Mayor: On the Politics of Identity in the Southern Philippines,” in Renato Rosaldo, ed, *Cultural Citizenship in Island Southeast Asia: Nation and Belonging in the Hinterlands* (UC Press, 2008).

30 He started his political career as the mayor of Panglima Sugala, the family’s bailiwick. He first became governor in 1998, lost to Rashidin Matba in 2001, and then won three consecutive terms in 2004, 2007 and 2010.

31 “Mindanao reps and their net worth”, *Mindanews.com*, 1 June 2014.

32 This was the second consecutive election that Rashidin Matba lost; in 2010 he lodged a legal challenge against the Sahali victory. See Supreme Court ruling G.R. 201796, Governor Sadikul A. Sahali and Vice-Governor Ruby M. Sahalai, petitioners, vs Commission on Elections (First Division), Rashidin H. Matba and Jilkasi J. Usman, respondents, 15 January 2013. A number of other recent elections have been contested, including Nur Jaafar’s first Congressional victory in 2004, see “Jaafar wins electoral protest against Tawi-Tawi Rep. Abubakar”, *Philippine Center for Investigative Journalism*, 7 July 2006.

33 IPAC interview with a senior OPAPP official, Manila, 13 March 2015.

affiliate, although it is now much weaker.³⁴ Wahab's rise to power from poverty was a master class in family politics; he installed his multiple wives and relatives as mayors, provincial board members and *barangay* captains (village heads). Wahab was assassinated by a bomb on the steps of the House of Representatives in Manila in 2007; investigators believed his political rival Gerry Salapuddin was behind the conspiracy.

Salapuddin, like Wahab, was formerly in the MNLF before entering politics in the 1980s. He was provincial governor from 1988 to 1998, then spent nine years in Congress. In the 2007 election, he chose to ally himself with Hadjiman ("Jim") and Mujiv Hataman, two upstart brothers from Basilan's southeast, who were once aligned with Wahab Akbar but had since fallen out with him.³⁵ Jim Hataman ran against Wahab Akbar for Basilan's only Congressional seat. Salapuddin ran against Jum Akbar, one of Wahab's wives, for governor. Mujiv also stood for Congress but as a candidate for Anak Mindanao on the party list system. Jim and Salapuddin lost, and Wahab died in the bombing in Manila a few months later. Initially it looked like the Hatamans were involved, with one accused paraphrasing Jim as saying "the death of Congressman Akbar [would] bring peace to Basilan", but investigators pursued charges against Salapuddin instead.³⁶ He went into hiding to evade arrest, reportedly taking shelter with his friends in the MNLF until the Supreme Court ruled in favour of his petition to have the charges dropped in 2013.³⁷

Despite the murder, the Akbar family continued to run the province. The Hatamans, however, made inroads in 2010, with Jim winning the Congressional seat; Mujiv ran against Jum Akbar for governor and lost. In 2011, President Aquino appointed Mujiv caretaker governor (officer-in-charge) of ARMM after Manila postponed that year's regional elections, angering the Akbars.³⁸ They continued to believe the Hatamans were behind Wahab's assassination, but could do little to resist the president's desire to appoint Mujiv.

In June 2012, however, the Aquino government helped resolve the feud and the two families signed a memorandum in which the Hatamans agreed not to challenge Jum Akbar's re-election as governor in 2013, and the Akbars agreed not to put up a candidate against Jim Hataman, who would run for his second term in Congress.³⁹ Both ran on the Liberal Party slate. Gerry Salapuddin's daughter, Rabia, ran against Jum for governor and lost, but this was hardly surprising. With the Aquino government engineering an end to the rivalry between the two dominant families, the 2013 poll results were a foregone conclusion. Mujiv, meanwhile, stood for regional governor with the president's support and won, although his term would end whenever the MILF-led transition authority took over—originally planned for mid-2015.

34 On Wahab's ASG connections, see International Crisis Group, "The Philippines: Local Politics in the Sulu Archipelago and The Peace Process", Asia Report No.225, 15 May 2012. The ASG is primarily active in Sulu and Basilan, with the odd foray further afield to Tawi-Tawi, the Zamboanga peninsula and eastern Malaysia. It became known for high-profile attacks and kidnappings in the late 1990s and early 2000s, but has declined significantly in size and strength, in part because of counter-terrorism operations by the Philippine military with support from the U.S. government.

35 The falling out was precipitated by Wahab's use of warrantless arrests against members of the Abu Sayyaf Group, some of whom are relatives of the Hatamans. See International Crisis Group, "Local Politics in the Sulu Archipelago and the Peace Process," op. cit.

36 See Supreme Court, Third Division, resolution, G.R. 184681, 25 February 2013.

37 "Fugitive ex-solon Salapuddin in MNLF turf", *Philippine Daily Inquirer*, 19 August 2010. In dropping the charges in 2013, the Supreme Court noted: "Reference to Salapuddin as the mastermind behind the grand plan to kill Congressman Akbar also varies with [a co-accused's] claim that the Hataman brothers made the order on two separate occasions, which allegation was...corroborated by [two other co-accused] in their own affidavits." Supreme Court, Third Division, resolution, G.R. 184681, 25 February 2013.

38 The official reason for the postponement was to synchronise them with the regular electoral cycle in the Philippines. The other reason was to ensure that the leadership at the regional level was amenable to a peace agreement with the MILF.

39 The pact was signed in the presence of then Secretary of Interior Jesse Robredo, and the other provincial governors within ARMM. It states that the parties promise not to do anything "that will endanger the life, property, and/or security of the other party, his/her relatives, employees, agents or any person under his/her care, including but not limited to, assassination, destruction of property, harassment, intimidation, and threats." Unsigned copy of the memorandum of agreement, provided to IPAC by one of the parties.

Basilan, which historically had a large Christian population, was the last province to join ARMM and until President Aquino appointed Mujiv Hataman, it had never produced a regional governor. Many Christians left as the province as violence increased in the 1990s and early 2000s with the ASG wreaking havoc through high-profile kidnappings, including of U.S. citizens. Beginning in 2002, the U.S. stationed its own forces in Mindanao to support Philippine counter-terrorism operations against the ASG, which initially improved security on Basilan. At the time, the MILF and ASG were tactical allies, but in November 2005, in the interests of furthering negotiations with the Philippine government, the MILF expelled ASG leaders and a group of Southeast Asian jihadis from central Mindanao. There has been bad blood between the ASG and MILF leadership ever since. In the southeastern part of the island, however, family ties between MILF and ASG members are strong. The ASG is often dismissed as a collection of bandits and kidnappers with an Islamist veneer, although recent pledges of allegiance by some of its leaders to the Islamic State of Greater Syria and Iraq (ISIS) have raised new concerns.⁴⁰

Most traditional politicians—including the Hatamans and the Akbars—are ethnic Yakan. Mayor Cherrylyn Akbar, a Christian originally from Zamboanga City, is another one of the late Wahab Akbar's wives and is a Muslim convert. She is openly against Isabela City joining the Bangsamoro, arguing that to do so would alienate the city's residual Christian population, although the city council in fact passed a resolution in support of a yes vote.⁴¹ Governor Jum Akbar has had to publicly support the BBL as a member of the Liberal Party but in fact is undecided.⁴²

The Hatamans, on the other hand, are firmly backing the BBL, both because of their close relationship with the president, and because they style themselves as progressive politicians who embody the peace agreements' vision of better governance—despite the lingering doubts about their role in Wahab's death. The Akbars' power is waning but the family still controls several municipalities, and the Hatamans have yet to supplant them.

One question is whether the truce between the two families will hold in the run-up to the 2016 polls; Jum Akbar has reached the three-term limit as governor and Jim Hataman plans to run to replace her.⁴³ Another is whether the Akbars—apart from Cherrylyn—will rally votes in support of joining the Bangsamoro as the president wants. It could be difficult for the Hatamans alone to muster the votes even if Mujiv's competent stewardship of ARMM has increased support for regional autonomy. The situation is not hopeless, however; Basilan is the one province in the islands where the MILF is not so much of an intruder, because of the base command in the southeast. Overall, the Aquino government is more confident about Basilan voting to join the Bangsamoro than Tawi-Tawi; the real worry is Sulu.

C. Sulu

Sulu is the biggest thorn in the MILF's side. Since 2007, the province has been dominated not by one family but by one man, Sakur Tan, a veteran politician in his mid-sixties. He won a disputed 1998 election for provincial governor, then lost the next two, in 2001 and 2004.⁴⁴ In 2007, he defeated the incumbent and won a second consecutive term in 2010, despite a formidable slate

40 While there is no evidence of ASG members serving in Syria or Iraq with ISIS forces, the ASG could well harbor pro-ISIS fugitives from other countries in the region, as it harbored fugitive extremists from Indonesia, Singapore and Malaysia in the past.

41 IPAC interviews with civil society and local politicians from the islands, Zamboanga City, 26 March 2015.

42 IPAC interview with a relative of the Akbars, Zamboanga City, 26 March 2015.

43 IPAC interview with Jim Hataman, Zamboanga City, 26 March 2015.

44 Tan was only proclaimed the winner after the ballots were manually counted in Manila. Two of the challengers, Tupay Loong and Yusop Jikiri, objected to the manual count. Details on the dispute can be found in the Supreme Court en banc ruling, G.R. 133676, 14 April 1999, "Tupay Loong vs Commission on Elections and Abdusakur Tan, respondents, and Yusop Jikiri, intervenor", available at www.lawphil.net/judjuris/juri1999/apr1999/gr_133676_1999.html

of rivals.⁴⁵

Sakur Tan's rise has not gone unchallenged, however. He was targeted in two assassination attempts, in 2009 and 2010.⁴⁶ In July 2012, the Supreme Court ruled that several actions he took in March 2009 following the kidnapping of three International Committee of the Red Cross employees by the ASG—declaring a state of emergency, setting up an armed Civilian Emergency Force (CEF) under his control—had exceeded the powers of a local chief executive. The court decision had little impact, especially as Manila showed little interest in enforcing it, for example by dismantling the CEF and replacing it with a real police force.⁴⁷

Ahead of the 2013 polls, Sakur consolidated his power. He patched up the rifts with his rivals, leveraging family connections and offering to bankroll the election campaigns of his allies.⁴⁸ This ensured there would be no serious challenger to run against his son, who was the Tan family's candidate for governor in 2013.⁴⁹ Sakur himself ran as vice-governor. Father and son both won.

Sakur Tan is stronger than any of the other politicians in the archipelago. As a rival observed, Sakur now controls 95 per cent of his province, “by force, by strength, by money”.⁵⁰ As Wahab Akbar did, he sustains his power by wielding influence with the military, the police and the Commission on Elections (Comelec), and by controlling access to government resources and the illicit economy.⁵¹ His leadership style is exactly what the Aquino government and the MILF want to end through creating the Bangsamoro. But they cannot ignore or sideline Sakur. He has good relations with the Sahalis and Jum Akbar and can shape opinion towards the plebiscite beyond his own province.⁵²

Sakur Tan's dilemma is this: he is more sceptical of the MILF in particular and regional autonomy in general than any other traditional politician in the island provinces, yet Sulu is too small for him. He believed he had a chance to be the Aquino government's candidate for regional governor in 2013, when it looked like Mujiv Hataman would honour the pledge he and other interim officials took not to run in the next election.⁵³ His political allies believe Sakur stepped back into the role of vice-governor instead in order to keep his options open in 2016, when the Bangsamoro would be set up.⁵⁴ It is not impossible that he would moderate his views on regional autonomy if he had a chance of being in charge, alongside or rather than the MILF.

But Sakur Tan is holding his cards close to his chest. He does not want to be seen as going against the president's wishes on the peace process, but he was confrontational during the Ad Hoc Committee's hearing in Sulu in November 2014. At the time, it looked like Congress would pass a reasonably strong version of the BBL, and thus one inimical to his interests. Sakur played on Tausug ethnic pride. In his opening remarks, he stoked fears that the Sulu Sea would be renamed

45 For more on this election, see International Crisis Group, “Local Politics in the Sulu Archipelago and the Peace Process”, *op. cit.*, p. 13.

46 *Ibid.*

47 Supreme Court en banc ruling, G.R. No. 187298, 3 July 2012. The court determined that the 1987 constitution “never intended for local chief executives to exercise unbridled control over the police in emergency situations” and that the “respondent governor has arrogated unto himself powers exceeding even the martial law powers of the president”. The suggestion that Manila should have been more involved in implementing the court ruling came from an IPAC interview with a politician from the islands, Zamboanga City, 26 March 2015.

48 IPAC interview with a politician from Sulu, 21 March 2015. Tupay Loong won a second consecutive term as congressional representative for the 1st district of Sulu, while Maryam Arbison won the seat in the 2nd district, dislodging Sakur's one time vice-governor and ally Nur-Ana Sahidulla, better known as Lady Ann.

49 The challenger was Lady Ann's husband—the two of them were the only ones left outside Sakur's bloc.

50 IPAC interview with a member of a political family from Sulu, 16 March 2015.

51 IPAC interview with a politician from the islands, Zamboanga City, 26 March 2015.

52 This was most apparent in the run-up to Mujiv's appointment as officer-in-charge regional governor in 2011, and in the few encounters the five provincial governors within ARMM had with the MILF and the government negotiating panels in 2012. Sakur emerged as the spokesperson for this bloc of politicians. See International Crisis Group, “Local Politics in the Sulu Archipelago and the Peace Process”, *op. cit.*

53 IPAC email correspondence with an individual close to the peace process, 23 May 2015.

54 IPAC interview with a politician from Sulu, Manila, 25 March 2015.

“Bangsamoro Waters” following the wording in the comprehensive agreement and the BBL.⁵⁵ When a government representative underscored the additional money the Bangsamoro would receive from Manila, Sakur retorted that his people’s history as Tausugs was more important than money.⁵⁶ Alarms sounded within the upper echelons of the Aquino administration; the secretary to the cabinet, Jose Rene Almendras, became responsible for leading the executive branch’s efforts to bring him and Sulu on board in late 2014.⁵⁷ Getting Sakur’s support for the plebiscite was too important to be left to OPAPP.

Sakur attended one of the last hearings by the Ad Hoc Committee in Manila before the Mamasapano incident. He said he supported the bill, provided Congress “fine-tuned” provisions that might be unconstitutional.⁵⁸ He is specifically concerned about the Bangsamoro having regional equivalents to the five constitutionally-mandated bodies, if they are controlled by the MILF or its allies. But unlike Philippine nationalists in Congress, he may be less motivated by constitutionality than by his fears that an MILF-controlled audit body would look into his financial practices.⁵⁹

The Aquino government and the MILF want to know what else Sakur Tan might want in exchange for Sulu joining the Bangsamoro. The matter is of sufficient importance that even the Malaysian facilitator of the peace process has been involved in trying to arrange a meeting between Sakur and Chairman Murad of the MILF.⁶⁰ The two men have not met since the comprehensive agreement on the Bangsamoro was signed in March 2014; Sakur was reportedly invited to join the July 2014 meeting in Hiroshima, Japan, between President Aquino and Chairman Murad on the BBL but did not attend.⁶¹ As of May 2015, Sakur was reportedly still refusing to meet. Another veteran politician from Sulu who knows him well observed that it is simply too soon—Sakur will wait to know exactly how strong the MILF is and what they can offer him before engages in any deals.⁶²

The emergence of a bloc of traditional politicians that is openly in favour of Sulu joining the Bangsamoro is a further complication. Former Sulu governor and current Congressman Tupay Loong, who chairs the House Committee on Muslim Affairs, is the strongest advocate for the BBL within the Ad Hoc Committee—even more so than Jim Hataman of Basilan.⁶³ Like most other traditional politicians in Sulu, Tupay and his brother Ben—also a former provincial governor—were aligned with Sakur Tan in the 2013 polls and as of May 2015 say they still are.⁶⁴ Both Loong brothers attended the MILF’s first rally for its new political party, the UBJP, at Camp Darapanan in December 2014. In doing so, they have moved much closer to the MILF.

The Loongs’ stance matters because Tupay is one of the so-called “Magic Eight”, a group of eight MNLF commanders who surrendered to President Ferdinand Marcos before the first peace agreement in 1976. In exchange for putting down their arms against the government, they were appointed mayors of various municipalities in Sulu—Tupay became mayor of Parang, and then later governor. The original Magic Eight and their families still control many of these municipalities, and they too, like the Loongs, are backing the BBL. Only one of this group, a branch of the Estino family which controls Panglima Estino, is currently on the outs with Sakur because

55 IPAC interview with a senior OPAPP official, Manila, 13 March 2015.

56 IPAC interview with a member of the BTC present at the hearing, Manila, 23 March 2015.

57 IPAC interview with an individual close to the peace process, 13 March 2015 and text message exchange with OPAPP staff, 23 March 2015.

58 “Mindanao guvs back BBL, call for improvement of draft law”, OPAPP website, 24 January 2015.

59 IPAC interview with a politician from Sulu, Manila, 25 March 2015

60 IPAC interview with a member of the International Contact Group, Manila, 12 March 2015.

61 IPAC interview with Chairman Murad, Camp Darapanan, 16 March 2015.

62 IPAC interview with a politician from Sulu, Manila, 19 March 2015.

63 IPAC interview with an MILF advisor, Manila, 18 March 2015.

64 IPAC interview with a member of the Loong family, Manila, 19 March 2015.

of an election dispute.⁶⁵ Many observers of Sulu politics are starting to ask if the Loongs' recent cosiness with the MILF and the Magic Eight's support for the BBL is part of a plan to break with Sakur later in 2015 and challenge him or his son for the governorship of Sulu in 2016.⁶⁶

The MILF, sooner rather than later, needs reliable allies in the island provinces, first for the plebiscite, especially in Sulu, and then for the first elections for the Bangsamoro parliament. The willingness of the Loongs to champion the BBL in their home province could be a fallback option if Sakur Tan breaks with the Liberal Party and openly campaigns for a no vote in the plebiscite. But the MILF does not want to feed political rivalries; in Chairman Murad's words, "Admittedly we have good relations with the Loongs but we will partner with everybody."⁶⁷

IV. THE MAMASAPANO INCIDENT

Public outrage over the Mamasapano deaths, combined with Aquino's bungled handling of the fallout, did serious damage to the peace process. In the early hours of 25 January 2015, highly trained counter-terrorism police launched an operation in Mamasapano, a town close to the 105th and the 118th MILF base commands, in Maguindanao, to kill Marwan and his local ally Basit Usman who were hiding with the breakaway Bangsamoro Islamic Freedom Fighters (BIFF).⁶⁸ The police did not inform the MILF of this risky operation, despite the MILF's track record of cooperating with its military counterparts in the Ad Hoc Joint Action Group, a body that was set up in 2002 to facilitate interdiction of criminals and terrorists in MILF areas.⁶⁹ A deadly firefight broke out between the 55th Special Action Company, used as a blocking force for the main operation, and MILF members who surrounded it. Hours later, 44 police, seventeen MILF and five civilians were killed.⁷⁰ Marwan was dead too, while Basit Usman escaped, only to be later killed by the MILF on 3 May in the neighbouring town of Guindulangan, also in Maguindanao.⁷¹

A peace process that had increasingly become focused on the technicalities of implementation was suddenly in jeopardy. All the underlying doubts about the MILF, regional autonomy and the search for a negotiated solution to conflict in Mindanao resurfaced overnight. President Aquino and his advisers in OPAPP had made a leap of faith in treating the MILF as a partner for bringing peace and good governance to Mindanao. Even if few beyond the executive branch

65 Sakur Tan sided with one side of the Estino family in the election dispute after two different branches of the family ran against each other in 2013 election. See the post on the Sulu government's Facebook page from January 2015.

66 IPAC interviews with political elites and donor agencies, Manila, Cotabato City and Zamboanga City, March 2015.

67 IPAC interview with Chairman Murad, Camp Darapanan, 16 March 2015.

68 For more details on Marwan, see IPAC Report No.17, *Killing Marwan in Mindanao*, 5 March 2015; and earlier papers on counter-terrorism operations and policy in Mindanao by the International Crisis Group, "Southern Philippines Backgrounder: Terrorism and the Peace Process", Asia Report No. 80, 13 July 2014; "Philippines Terrorism: The Role of Militant Islamic Converts", Asia Report No.110, 19 December 2005; "The Philippines: Counter-insurgency vs Counter-terrorism in Mindanao", Asia Report No. 152, 14 May 2008. For details on the BIFF's split from the MILF, see International Crisis Group, "The Philippines: Back to the Table, Warily, in Mindanao", Asia Briefing No.119, 24 March 2011.

69 It only became active in 2005, however. AHJAG was instrumental in securing MILF cooperation to expel ASG leaders and their Southeast Asian jihadi allies from central Mindanao in 2005, as mentioned above.

70 The police was the first to release a report on the Mamasapano incident in March; full text of the Board of Inquiry's report can be downloaded at www.philstar.com/headlines/2015/03/13/1433196/full-text-ntp-board-inquiry-mamasapano-report. Next was the Senate; for a comparison of its findings and those of the Board of Inquiry, see "Juxtaposed: BOI and Senate panel Mamasapano probe findings", *Philippine Star*, 19 March 2015. Later in March, the MILF released its own investigation, initially to the International Monitoring Team and then publicly; full text at www.gmanetwork.com/news/story/458026/news/nation/full-text-report-of-the-milf-on-the-mamasapano-clash. OPAPP summarized the conclusions drawn by the International Monitoring Team following its own investigation, as available here: www.rappler.com/nation/89080-international-monitoring-team-report-mamasapano. The Department of Justice's report recommended filing charges against 90 individuals: www.gmanetwork.com/news/story/474514/news/nation/full-text-doj-report-on-mamasapano-clash.

71 The MILF's vice-chairman for political affairs, Ghazali Jaafar, told the press it was proof that the MILF does not allow terrorists to enter their communities. "MILF: Killing of Basit Usman not related to BBL or Mamasapano clash", *Philippine Star*, 7 May 2015.

were as committed, it looked like the president's own popularity would secure the passage of the BBL in Congress with support of the Philippine public. Mamasapano sent Aquino's poll ratings into a nosedive.⁷² Not only had he been closely involved in a counter-terrorism operation that revealed serious problems and mistrust between the military and the police, but he appeared to have placed too much trust in the MILF.

Congress stoked the political firestorm. For the first time, the president looked vulnerable, and aspiring candidates to replace him in 2016 seized the opportunity. The Senate and House of Representatives launched inquiries and suspended debate on the BBL. In the process, the executive branch lost the ability to shape public perceptions of a peace pact that was meant to be the president's legacy. The tenor of Congressional discussions about the BBL also shifted dramatically. While before Mamasapano, most legislators tacitly accepted that the BBL was, for the most part, constitutional and would pass with amendments, afterwards many viewed key provisions in a harsher light. The chair of the Ad Hoc Committee, Rufus Rodriguez, became more vocal in public about the problems of the BBL, even while he assured international backers of the peace process that the lower house would support the bill.⁷³

The impact in Mindanao is much less clear. On the one hand, there is little to no sympathy among Moros, especially the Tausug, for the police killed by the MILF in Mamasapano. Observers of social media say that anti-Maguindanao rhetoric on Twitter from the island provinces immediately died down.⁷⁴ OPAPP and other champions of the peace process hope that the palpably anti-Moro sentiment emanating from Congress is increasing solidarity among the different ethnic groups within the Bangsamoro.⁷⁵ At the level of popular sentiment, this may well be true, although that could be cold comfort if implementation proves impossible.

The Mamasapano incident made it much easier to criticise the MILF publicly. Sakur Tan wasted no time. In mid-February, he sent photos of the MILF allegedly recruiting in the municipality of Panglima Estino in Sulu to the chair of the Senate inquiry, Grace Poe, to sow further doubts about the MILF leadership's trustworthiness. In a covering letter sent to Senator Poe and OPAPP, he wrote:

Questions had been raised as to why there is a need to open an MILF camp for training and recruitment of MILF members while we are in the process of public consultations on the draft Bangsamoro Basic Law. Will these not run counter to the spirit of the Comprehensive Agreement on the Bangsamoro? What is the real purpose of the said training?... The local government units in the Province of Sulu are expressing their collective apprehension on this matter even as we support the passage of the BBL.⁷⁶

Chief MILF negotiator Mohagher Iqbal replied to these allegations during the Senate inquiry, saying that the MILF was still looking into the matter but that the municipality was enmeshed in a political feud.⁷⁷ The MILF has been inadvertently drawn into the dispute—in which Sakur Tan also has a hand, as noted above—because the UBJP's vice-president for Western Mindanao, Ma'amor Estino, is part of the extended family. The MILF claims the firearms displayed belong

72 Polling by the reputable Pulse Asia during the first week of March saw Aquino receive approval and trust ratings below 50 per cent for the first time in his presidency. His approval rating declined from 59 per cent to 28 per cent from November 2014 to March 2015; his trust rating declined from 56 per cent to 36 per cent during the same period. See "Pulse Asia: Aquino trust, approval ratings at their lowest after Mamasapano incident", *Philippine Daily Inquirer*, 17 March 2015.

73 IPAC interview with a member of the International Contact Group, Manila, 12 March 2015.

74 IPAC interview with a former government official and consultant, Manila, 20 March 2015.

75 IPAC interview with a senior OPAPP official, Manila, 13 March 2015.

76 Letter from the Office of the Vice-Governor, Provincial Government of Sulu, 17 February 2015, copy on file with IPAC. The MILF appears to have been dragged into the matter because of family ties—the half-brother of Ghazali Jaafar, the vice-chair for political affairs of the MILF, was present and is identified in the photos. The UBJP vice-president for Western Mindanao is also an Estino.

77 "Senate to peace panels: explain 'MILF training' photos", *Rappler.com*, 24 February 2015.

to the Estinos.⁷⁸

Sakur Tan, the Sahalis and Jum Akbar have been careful to remain in the president's corner, even as they make subtle and not-so-subtle jabs at the MILF. In early March, these three ruling families held a forum in Zamboanga City to express their support for the president; the event was reportedly organised by Sakur Tan. But with Aquino's popularity on the decline, the chances of one or more of these politicians breaking with the Liberal Party have increased. The Liberal Party's presumed presidential candidate for 2016, Secretary of the Interior Mar Roxas, looks weaker than other contenders.⁷⁹ The front-runner is Vice-President Jejomar Binay of the United Nationalist Alliance, although his family is currently under investigation by the office of the ombudsman, in a thinly veiled attempt by the Roxas camp to weaken him.

The MILF is in an impossible position. The killing of Basit Usman at the hands of one of its base commands in central Mindanao in early May may help public perception, but only marginally. The elements of the peace deal the MILF and their supporters fought hardest for—such as the parliamentary system and control over the police—could still slip out of their grasp. International supporters of the peace process, such as the members of the International Contact Group, the Third Party Monitoring Team, and the Organisation of Islamic Conference (OIC), are trying to ensure this does not happen, but the final decision on the BBL rests with Congress.⁸⁰

This raises two questions: will the BBL emerge in a format acceptable to the MILF; and, if so, will it still be possible for Aquino to pressure the ruling elite in the islands when it comes to the plebiscite?

V. THE AD HOC COMMITTEE REPORT ON THE BBL

When the Ad Hoc Committee voted line by line on the BBL between 18 and 20 May, the Aquino administration leaned heavily on legislators to block amendments that would have forced the MILF to reject the bill.⁸¹ Despite Chairman Rodriguez publicly declaring that several provisions in the BBL would need to be deleted or revised, the version of the bill that will go to plenary is the best the MILF could have hoped for under the circumstances. The parliamentary system and other important provisions have been retained.⁸² At least at committee level, the president proved he still has influence.⁸³

Before the Ad Hoc Committee began voting, there were five points of contention:

- The five constitutionally-mandated bodies. While the MILF does not want to see these

78 IPAC interview with MILF negotiator Mohagher Iqbal, 14 March 2015.

79 There are rumours that Grace Poe might run alongside Mar Roxas for vice-president, on the Liberal Party ticket. "LP courting Poe as Mar running mate," *Philippine Star*, 29 April 2015.

80 The OIC in particular stepped up its efforts with a high-profile visit by the OIC's secretary-general in mid-April. For more on its role, see Section VII below. The International Contact Group (ICG) was set up in 2009 and comprises non-governmental organisations (NGOs) and states; representatives attended the negotiations in Kuala Lumpur between the MILF and Philippine government negotiators. Members of the ICG at the time the framework agreement was announced were Saudi Arabia, Turkey, Japan, the UK, Conciliation Resources, the Asia Foundation, the Centre for Humanitarian Dialogue, and Muhammadiyah. The Third Party Monitoring Team was set up after the peace agreements were reached to report on their implementation. It is chaired by former EU Ambassador to the Philippines Alistair MacDonald and has four other members, two from local NGOs and two from international NGOs. Its most recent public report came out in February 2015.

81 The committee vote was postponed by a week and the president met with legislators on 15 and 17 May.

82 The MILF would not have accepted a version of the bill that removed the parliamentary system. IPAC interview with Mohagher Iqbal, Manila, 14 March 2015.

83 MILF advisors observing proceedings in Congress say that the debates on the BBL have followed a similar pattern to those on a controversial reproductive health bill, where legislators were allowed to air their criticisms but then President Aquino weighed in to ensure Congress passed a strong version of the law. IPAC interview with a technical advisor to the MILF, Manila, 18 March 2015. This is exactly how debates on the BBL played out.

removed, if there is no guarantee in law that the Bangsamoro will have its own Commission on Audit, this would address one of Sakur Tan's misgivings about the BBL.

- The Chief Minister's control and supervision of police. The MILF believes only a stronger regional police force will stop traditional politicians from using local officers as hired guns, and it could also help tackle the security problems posed by the ASG and criminal gangs.
- The requirement for the president to coordinate any military operations in Bangsamoro territory with the Chief Minister. Even if this is removed, the MILF and the military would still have regular communication anyway under the longstanding ceasefire, AHJAG, and security aspects of the annex on normalisation from the comprehensive agreement.
- The opportunity for contiguous areas to join the Bangsamoro in future plebiscites. This matters to the MILF because the leadership hopes that the new region will prove so successful that neighbouring areas will want to join. It could also give the island provinces an opportunity to join later, even if they opt out in the first plebiscite.
- The parliamentary system. Not only was one of the first major concessions the Aquino government made to the MILF in negotiations in late 2011 and early 2012, but it also is one of the peace agreements' strongest selling points and the surest guarantee that power will be equitably shared within the Bangsamoro.

Of these, the committee only deleted a section requiring coordination between the Bangsamoro government and Manila on the Philippine military's movements. The MILF is satisfied with the amendments on policing.⁸⁴ To address concerns raised by legislators from Mindanao, however, the sections on territory were tightened. Rather than "contiguous areas", only "contiguous cities and provinces" can petition to vote to join the Bangsamoro in the plebiscite to be held later this year; this reassures residents of Iligan City in Lanao del Norte and Zamboanga City (neither of which is contiguous) that they will not be voting.⁸⁵ The committee did, however, retain the provision allowing for future plebiscites, but only in the fifth and tenth years after the law comes into force.⁸⁶ In the days after the vote, the MILF criticised two other aspects of the revised bill—references to the 1997 Indigenous Peoples Rights Act (IPRA), and the exemption of "strategic minerals" from the Bangsamoro's control.⁸⁷ Neither however seems to be a deal-breaker for the MILF.

The next hurdle will be approval from the Senate, which is stacked with aspiring presidential and vice-presidential candidates who will be harder to influence than congressional representatives.⁸⁸ If Congress passes an acceptable version of the BBL before it goes into recess in June, the plebiscite must happen within 120 days, in other words by October.

84 See "BBL amendments in house committee level violate peace deal – MILF", Luwaran.com, 22 May 2015.

85 It does however mean that individual *barangays*—apart from the 39 in North Cotabato that are listed in the core territory—cannot petition to vote in the plebiscite to be held later this year.

86 The Ad Hoc Committee specified that "any local government unit or geographical area" can join in the future provided that it be contiguous, but also "within the area of autonomy identified in the 1976 Tripoli Agreement", in reference to the first peace agreement with the MNLF.

87 The committee version defines strategic minerals as "uranium, petroleum and other fossil fuels, mineral oils, and all sources of potential energy". Control over these minerals was a major point of contention with the MNLF as well. For the MILF's initial reaction to the committee's bill, see "BBL amendments in house committee level violate peace deal – MILF", Luwaran.com, 22 May 2015. On IPRA's applicability in Moro areas, see International Crisis Group, "The Philippines: Indigenous Rights and the MILF Peace Process", Asia Report No.213, 22 November 2011.

88 For example, the reaction of Senator Miriam Defensor-Santiago, "Amend BBL now or face SC litigation – Miriam," GMANews, 21 May 2015.

VI. FACTORS AFFECTING PERCEPTIONS IN THE ISLANDS

As the MILF and the Aquino government grew more worried that pressure tactics with the governors would not work—especially in the wake of the Mamasapano incident—they began to see grassroots support as the only possible back-up option.⁸⁹ Outreach efforts to date, such as the Congressional hearings, have primarily engaged the views of the Sulu archipelago's elite—politicians and educated, professional classes already aware of and interested in attending discussions held in provincial capitals and not in native dialect.⁹⁰ OPAPP has held off on translating the BBL into local languages until it is in final form and approved by Congress. Its content is not accessible to ordinary people, as participants in consultations have pointed out. There is limited time for a major information campaign and, with the delays due to the Mamasapano incident, it will be even more challenging to ensure an informed electorate. As of February 2015, knowledge of the BBL within the core territory was still limited, with survey results showing that only a minority have extensive or partial knowledge.⁹¹

Unsurprisingly, polling also shows that support for the agreements and the BBL is highest in central Mindanao. Among the island provinces, Sulu and Isabela City have consistently been the most sceptical, with slightly more support in Basilan and Tawi-Tawi.⁹² A similar pattern emerges in trust placed in the MILF: in all areas of the core territory in central Mindanao, a majority believes the MILF is very sincere; in sharp contrast, only 12-13 per cent in Sulu and Isabela City, and 25-26 per cent in Basilan and Tawi-Tawi believe this.⁹³ The question is how the opinions of the political elite will influence the general population, whether they might tip the vote in favour or against the BBL. One member of a political family from Sulu argues that this is the only thing that matters since politicians determine public opinion.⁹⁴

To the extent that the plebiscite does hinge on the feelings of the populace at large, the main challenge for the MILF is to overcome scepticism of its motives and to convince voters that it represents the interests of the Sulu archipelago as much as it does those of central Mindanao. To do so, it needs to take into account three factors: the legacy of ARMM; ethnic identity and the Sulu sultanate's claim to Sabah, in eastern Malaysia; and sympathy for the MNLF even after a bloody clash in 2013 with government security forces in Zamboanga City.

A. *The Legacy of ARMM*

The MILF needs to convince cynical voters in the Sulu archipelago that they will get more out of the Bangsamoro than they have out of ARMM. They have little reason to believe that the MILF

⁸⁹ IPAC interview with MILF Chairman Murad Ebrahim, Camp Darapanan, 16 March 2015.

⁹⁰ This was raised by several people who have attended consultations as a frequent problem. IPAC interviews with Congressional staff, Manila, 23 March 2015; and with a politician from the Sulu archipelago, Zamboanga City, 28 March 2015.

⁹¹ Knowledge was most limited in Sulu, with 26 per cent, and highest in areas of Cotabato near to ARMM, with 54 per cent. "Filipino public opinion on the Bangsamoro Basic Law (BBL) and the Mamasapano incident", Social Weather Stations, Institute of Islamic Studies and the Asia Foundation, copy of a presentation made 15 May 2015 at the University of the Philippines.

⁹² OPAPP commissioned a survey in October 2014 to gauge opinion in different areas of the Bangsamoro, the results of which have not been made public. It found that the majority of respondents polled in the core territory approved of the BBL, but with Isabela City and Tawi-Tawi having the smallest majority. The island provinces were also less enthusiastic about ARMM being replaced by the Bangsamoro than in central Mindanao. "Bangsamoro poll 2014: Survey of likely voters in the proposed Bangsamoro region (October 10-30, 2014)", OPAPP, made available to IPAC. A Social Weather Stations poll conducted in March shows that approval of the BBL is higher near Cotabato City (93 per cent approval) than in Sulu (31 per cent approval). However, almost 49 per cent in Sulu were hopeful that the new Bangsamoro government would bring peace and development. "Poll says 48% against BBL, 62% not hopeful for peace", *Philippine Daily Inquirer*, 16 May 2015.

⁹³ "Filipino public opinion on the Bangsamoro Basic Law (BBL) and the Mamasapano incident", Social Weather Stations, Institute of Islamic Studies and the Asia Foundation, copy of a presentation made 15 May 2015 at the University of the Philippines.

⁹⁴ IPAC interview with a member from a political family from Sulu, 16 March 2015.

will be able to make regional autonomy work better for the island provinces than the MNLF did with ARMM.

The MNLF's 1996 final peace agreement was meant to expand the powers and territory of ARMM, but the 2001 law Congress passed to enact the peace agreement diverged significantly from what MNLF founder Nur Misuari—an ethnic Tausug from Sulu—wanted. This is the MNLF's main grievance to this day. The OIC, which brokered the 1996 agreement, intermittently convenes a tripartite review with the Philippine government and the two main MNLF factions—Nur Misuari and his supporters, and the Council of Fifteen, a splinter group that emerged in 2001.⁹⁵

The MILF has always deemed ARMM a failure. It blames the region's inadequate powers (which the MNLF would agree with) and leadership (which it would not). The Philippine government let the MNLF run the autonomous region for nine years, anointing Nur Misuari as regional governor from 1996 to 2001.⁹⁶ He was an ineffective chief executive, yet MNLF loyalists are reluctant to make him responsible for ARMM's lack of achievements. The MILF however has no such compunctions and one reason its leaders insisted on a new name was to distance itself from ARMM.⁹⁷

The view of ARMM is different in the Sulu archipelago. Misuari still commands respect and has armed followers in the hinterlands of Jolo, Sulu's main island. He feels sidelined by the Aquino government and angry at it for cutting a deal with the MILF while his peace agreement remains unimplemented. Misuari, MNLF loyalists and the movement's mass base view ARMM with pride even while they know very well its shortcomings.

To persuade the island provinces to vote yes, the MILF needs to show that the Bangsamoro builds on existing autonomy arrangements rather than only highlighting ARMM's failings.⁹⁸ Voters would be most receptive if this argument came from the MNLF itself, but this is unlikely. OPAPP, after initially trying to merge the MNLF's lingering concerns over the 1996 agreement into its negotiations with the MILF, largely abandoned these efforts in mid-2012 as talks on the framework agreement progressed. Other efforts to engage the MNLF—in the appointed ARMM government under Mujiv Hataman, in the Bangsamoro Transition Commission, and efforts by the OIC to launch a Bangsamoro Coordination Forum involving the two organisations—did not succeed, often because Misuari in particular was not interested.⁹⁹ In the public hearings, in Sulu, participants suggested the MILF should have more communication with the MNLF.

MNLF leaders such as former Cotabato mayor Muslimin Sema of the Council of Fifteen are more amenable to the MILF than Misuari—in Sema's case there are ethnic ties, as he is Maguindanao from central Mindanao. But Sema was also critical of the BBL. When he addressed the Ad Hoc Committee in Manila in January, he said:

In its current form, the proposed Bangsamoro Basic Law is a recipe for disintegration of the current autonomous region.... Moreover, this will be the third plebiscite on the region and the way the BBL is written, we are bound to lose what we have gained

95 For more on the Council of Fifteen, see International Crisis Group, "The Philippines: Counter-insurgency vs Counter-terrorism in Mindanao", *op.cit.*, p.6.

96 From 2001 to 2005, Parouk Hussein of the Council of Fifteen was ARMM governor.

97 The island provinces are less enthusiastic about ARMM being replaced by the Bangsamoro than in central Mindanao. "Bangsamoro poll 2014: Survey of likely voters in the proposed Bangsamoro region (October 10-30, 2014)", *op. cit.*

98 The BBL states that Republic Act 9054—the legislation that was meant to implement the MNLF's 1996 peace agreement by modifying the powers of ARMM—will be repealed.

99 The MNLF factions turned down the opportunity to be named to the BTC. Sema was offered a position, and Nur Misuari was asked to provide names for potential members. IPAC interview with an individual supporting implementation of the peace agreement, Manila, 28 March 2015.

in the last four decades.¹⁰⁰

The MNLF is unhappy that the MILF peace agreements will dismantle ARMM. For the more pragmatic MNLF leaders like Sema, it would not be in their interests to openly oppose the creation of the Bangsamoro because they could gain power through appointments to it—few have done very well at the ballot box, with Sema himself a major exception.¹⁰¹

Apart from widespread sympathy for the MNLF, archipelago voters might also vote no because they have gained so little from regional autonomy. Violence worsened after the 1996 peace agreement thanks to the ASG's activities and renewed Philippine military operations; development initiatives under ARMM remain piecemeal and hostage to the security situation.¹⁰²

The MILF hopes to counter these doubts by emphasising the ways in which the BBL is much stronger than the 2001 law that partially implemented the 1996 agreement. Even with the changes Congress has made to the bill so far, this is still true, but the MILF would be better off banking on support for the Bangsamoro right to self-determination than criticising ARMM. If the provincial governors do not rally their constituents for the plebiscite, but the islands somehow do still vote yes, it could simply reflect “a bankrupt hope [that the Bangsamoro] can't be worse”.¹⁰³

B. *Ethnic Identity and the Sabah Claim*

The MILF's reaction to a bizarre incursion into eastern Malaysia shortly after the framework agreement was announced laid bare its lack of sympathy for an issue close to the hearts of many Tausug: their irredentist claim to Sabah.

On 9 February 2013, roughly 300 armed followers of Jamalul Kiram III, a descendant of the sultan of Sulu, sailed from Sulu and Tawi-Tawi to Lahad Datu, in the state of Sabah in eastern Malaysia. The so-called “Royal Army of Sulu” claimed to be returning to their homeland, referring to the decision by the sultan of Brunei in the 1700s to cede north Borneo to the Sulu sultanate.¹⁰⁴ A long stand-off ended when two Malaysian police were killed—according to the Malaysian foreign minister, they were lured into an encounter and killed by the invaders, while Kiram said the Malaysians fired first. Either way, the Malaysian military then moved in and began attacking, including with airstrikes. More than 100 people were killed. Hundreds of others were arrested, and tens of thousands of Muslim Filipinos who live and work in Sabah, many of them illegally, returned to the southern Philippines, fearing they would be deported.¹⁰⁵

The existence of the Sulu sultanate centuries ago is part of the rationale advanced by the MNLF and MILF for the Bangsamoro right to self-determination. Like the Maguindanao sultanate and the royal houses in Lanao, they prove that the Moro areas had a distinctive political structure predating the arrival of the Spanish in what is now the Philippines. The MILF, led by ethnic Maguindanao and Maranao from central Mindanao, has shown little interest in reviving the territorial claim of the Tausug descendants of the Sulu sultans and in any case is inclined to

100 Quoted in “Highlights of House ad hoc committee January 20 public hearings on BBL”, Institute on Autonomy and Governance, 26 January 2015.

101 IPAC interview with a politician from the Sulu archipelago, 19 March 2015.

102 For example, of all the regions in the Philippines, ARMM had the highest poverty incidence (46.9 per cent) among families in 2012. Data is from the July 2012 Family Income and Expenditure Survey and is available on the website of the National Statistical Coordination Board, www.nscb.gov.ph/poverty.

103 IPAC interview with a former government official and consultant, Manila, 20 March 2015.

104 See the detailed timeline at www.quezon.ph/2013/03/01/north-borneo-sabah-an-annotated-timeline-1640s-present/; and Ed Lingao, “History catches up with Sabah”, blog post by the Philippine Center for Investigative Journalism, 19 February 2013, available at pcij.org/blog/2013/02/19/history-catches-up-with-sabah.

105 On Filipinos in Sabah see Kamal Sidiq, “When States Prefer Non-Citizens over Citizens: Conflict over Illegal Immigration into Malaysia”, *International Studies Quarterly* 49, no. 1 (March 2005): 101-122.

view it as a Philippine nationalist issue rather than a Bangsamoro cause.¹⁰⁶

The perspective in Sulu is very different. The MNLF under Misuari included Sabah in its territorial claims before eventually dropping them in order to secure the 1996 peace agreement.¹⁰⁷ As the stand-off in Lahad Datu unfolded, Misuari visited Jamalul Kiram III in Manila. He acknowledged that MNLF “freedom fighters” were present in Sabah while claiming his organisation was not involved.¹⁰⁸ It cost Misuari nothing to champion this Tausug cause—he has been on bad terms with the Malaysians for years already—and he scored easy points against the MILF, whose leaders in contrast were silent to the point of seeming uncaring.¹⁰⁹ MILF negotiators and their government counterparts were hammering out the annexes that would complete the comprehensive agreement, in discussions facilitated by Malaysia. The Sabah incursion dispelled any notion of Kuala Lumpur as impartial, and the framework agreement was lucky to escape unscathed.

The same cannot be said of the MILF’s image in the eyes of ethnic Tausug. As one individual from Sulu remarked, the MILF has misjudged the depth of sentiment about Sabah, because “Maguindanaoans are not owners of Sabah; we are.”¹¹⁰

Apart from their unwillingness to back the territorial claim, the MILF also appeared disinterested in the plight of Moros living in Sabah, who were mostly from the island provinces. The Malaysian government periodically cracks down on these illegal migrants, and they were particularly targeted in the aftermath of the incursion. The MILF did not seem to include them in its vision of the Bangsamoro, or have put any thought into standing up for them.

Whether the Sulu archipelago joins the Bangsamoro or not has no bearing on the Philippine claim to Sabah. But the MILF’s response when the issue unexpectedly flared up made their leaders seem out of touch with Sulu and Tawi-Tawi.

C. *The MNLF and the Zamboanga Clash*

Fighting between Misuari loyalists and the Philippine military in Christian-majority Zamboanga City demonstrated residual support for Nur Misuari in Sulu. It also hardened the views of Christian politicians in Zamboanga City and increased their incentives to drive a wedge between the island provinces and central Mindanao.

The battle in Zamboanga City in September 2013 razed entire *barangays* and displaced more than 120,000 people. The incident seems to have been triggered by OPAPP’s attempt to wind down the OIC-led tripartite review in mid-2013. Misuari then pronounced an “independent Bangsamoro Republic”, as he construed Manila’s actions as terminating the 1996 final peace agreement.¹¹¹ In early September, hundreds of his armed followers, including some but not all of his inner circle, sailed to Zamboanga City, supposedly to march peacefully to city hall where

106 The 1987 Constitution does not refer to Sabah as part of Philippine territory, but earlier legislation, for example the baseline law (Republic Act 5446) from 1968 stated in Section II: “The definition of the baselines of the territorial sea of the Philippine Archipelago as provided in this Act is without prejudice to the delineation of the baselines of the territorial sea around the territory of Sabah, situated in North Borneo, over which the Republic of the Philippines has acquired dominion and sovereignty.” See www.lawphil.net/statutes/repacts/ra1968/ra_5446_1968.html. This law was amended in 2009 by Republic Act 9522 but did not relinquish the claim.

107 The 1968 Jabidah massacre was precipitated by Moro recruits to the Philippine military discovering that they were to be used to infiltrate Sabah; when they discovered their mission, they mutinied and were killed by their commanders.

108 “Misuari: Ex-MNLF fighters involved in Sabah”, *Rappler.com*, 5 March 2013.

109 After troops loyal to Misuari launched an uprising in 2001, over their displeasure at the implementation of the 1996 peace agreement, Misuari fled to Malaysia. Kuala Lumpur returned him to the Philippines and he was under house arrest in Manila for several years.

110 IPAC interview with individual from Sulu, Manila, 24 March 2015.

111 “Q&A on the status of the peace process between the GPH and the MNLF”, Office of the Presidential Adviser on the Peace Process, 18 November 2013, available at opapp.gov.ph/sites/default/files/Q%20and%20A_%20MNLF_%20asof18Nov2013_0.pdf.

they planned to raise the MNLF flag. There are conflicting accounts from participants about what they thought they would be doing.¹¹²

The situation turned violent as the MNLF arrived in four Moro-dominated *barangays* of the city on 9 September. They killed four civilians, one military and one police officer and held civilians hostage in areas under their control. Efforts to resolve the situation peacefully failed.¹¹³ Instead, intermittent fighting between the military and the MNLF lasted until the end of the month, with almost 200 MNLF killed.¹¹⁴ The government filed charges of rebellion and violating international humanitarian law against 287 people, including Misuari, although he remains on Jolo and the government has no plans to arrest him.

The fighting caused some MNLF sympathisers to question Misuari's leadership: "[They] know that what he did was wrong...and he sacrificed the lives of his followers."¹¹⁵ It also weakened him, militarily and politically. Some of the more open-minded MNLF supporters in the islands, assisted by a small NGO, called the BaSulTa Contact Group, are looking to form their own political party to field candidates for the Bangsamoro parliament. The group, named for the common acronym for Basilan-Sulu-Tawi-Tawi, is largely comprised of children of senior MNLF figures and the middle ranks of the movement. The idea is not for this to be an "MNLF political party" but rather a "political party of the MNLF" which will be slightly at arm's length from any of the factions, so that it will be more independent while still reflecting the leadership's political objectives.¹¹⁶

Misuari is still angry at the MILF and the Aquino government. However, trying to upset their plans for the plebiscite by mobilising a no vote does not get Misuari any closer to full implementation of the 1996 peace agreement. It also may not matter if Misuari and his loyalists oppose Sulu joining the Bangsamoro if they are the only ones who do. Misuari commands respect but not votes; he regularly runs for elected office and never wins, proving he is not able to translate his power into electoral victories.¹¹⁷ A more potent combination would be open opposition from Misuari and Sakur Tan. This is not beyond the realm of possibility, as the two men are in fact related through their wives. If an overt alliance did materialise, it would be Sakur's doing—even when it comes to the MNLF in Sulu, he holds the cards.¹¹⁸

The clash also planted the seed of a new idea in the minds of Zamboanga City's Christian politicians: that the success of the MILF peace process will make things worse for Zamboanga

112 Participants included Habier Malik, who is believed to have been killed during the fighting. Tahir Sali, the vice-chair for political affairs of the MNLF's Sulu State Revolutionary Committee, however did not join. IPAC interview with an individual close to the MNLF in Sulu, Zamboanga City, 27 March 2015. Other MNLF commanders present were Ustadz Haider of Zamboanga Sibugay province, and Ustadz Ismael from Basilan. "Initial report of the Zamboanga September violence", Commission on Human Rights, 23 September 2013, copy on file with IPAC.

113 Secretary of Interior Mar Roxas spoke with Habier Malik two or three times, according to what he told the Senate in early 2014. OPAPP also sent Undersecretary Jose Lorena, a former MNLF member himself, to the city to negotiate but he left soon after due to budget hearings in Congress. OPAPP's weak response to the stand-off did not endear it to the MNLF. The incident gave a new urgency to disarming and demobilising the remaining followers of Misuari in the MNLF camps in Jolo, but OPAPP's only option was to use a development program called PAMANA that aims to extend basic social services to conflict areas. IPAC interview with individual close to the MNLF in Sulu, Zamboanga City, 27 March 2015. OPAPP defended its response by noting "OPAPP's work is negotiated political settlement. When a crisis like this happens, political discussions are out of the question as government cannot negotiate when a gun is being pointed at it." See "Q&A on the status of the peace process between the GPH and the MNLF", op. cit.

114 "What went before: Nur Misuari-led attacks on Zamboanga City", *Philippine Daily Inquirer*, 5 October 2013.

115 IPAC interview with a politician from Sulu, Manila, 19 March 2015.

116 IPAC interview with the BaSulTa Contact Group, Zamboanga City, 28 March 2015. MNLF women in both central Mindanao and the island provinces are organising a similar party and are in fact further along. IPAC interviews with development actors providing support to political party building, Manila and Zamboanga City, 13 and 28 March 2015.

117 He most recently ran for ARMM governor in 2013.

118 Sakur for example provides in kind support, by providing food and transport, for events convened by Misuari in Sulu. IPAC interview with an individual close to the MNLF, Zamboanga City, 27 March 2015. Misuari attended a December 2012 consultation on the framework agreement in Jolo and reportedly deferred to Sakur as to whether he should speak. IPAC email correspondence with an individual close to the peace process, 23 May 2015.

City, because it could encourage the MNLF to lash out again.¹¹⁹ The mayor, Beng Climaco, like the provincial governors in the Sulu archipelago, is a member of the president's Liberal Party and keen to maintain good relations with him.¹²⁰ But she has been undermining efforts in support of the MILF peace agreements by refusing permits for rallies and forums; Zamboanga City is an important logistic hub for all outreach in the Sulu archipelago before the plebiscite.¹²¹

Celso Lobregat, the former mayor and current congressman has always been vociferously opposed to any agreement with the MILF and helped kill the previous best hope for an agreement, the 2008 memorandum of understanding on ancestral domain.¹²² The Mamasapano incident gave him an even more receptive audience within Congress for his attacks on the MILF and the BBL; he lobbied hard to get the Ad Hoc Committee to change the provisions that mention contiguous areas joining the Bangsamoro; as noted above, he only partially succeeded.

The disappointing legacy of ARMM, ethnic identity and sympathy for the MNLF are the underlying factors in the islands that work against support for the MILF peace agreements, the BBL and a yes vote in the plebiscite. It is strange that the MILF is now championing grassroots support as a counterweight to potential opposition from one or more of the ruling families as its leaders know very well that the deck is stacked against them.

VII. HOW TO PREPARE FOR THE PLEBISCITE

There are better ways of shoring up support for joining the Bangsamoro in the Sulu archipelago than waiting to see how Sakur Tan plays his hand and pinning hopes on favourable public opinion. Proponents of a yes vote in the islands include the MILF, OPAPP, the president and his inner circle, the Bangsamoro Transition Commission, civil society groups, members of nascent regional political parties, and a few traditional politicians. There are four areas they should focus on in advance of the plebiscite, if it indeed goes ahead: reaching out to the MNLF in Sulu; targeted campaigning for specific constituencies; building support among a wider group of elites; and managing the risks of overt opposition from the provincial governors.

The MILF should play an overall coordination role, but it urgently needs to allocate responsibility for campaigning and diversify the people involved. It has its own pre-existing political and military structures, plus the transition commission and now its political party, the UBJP, as well. Chairman Murad says that the UBJP will be the MILF's main vehicle for lobbying for a yes vote. The party was launched in December 2014, with Sammy al-Mansour, chief of staff of the Bangsamoro Islamic Armed Forces, the MILF's military wing, as secretary-general. Several familiar faces reappear in the upper echelons of the party. The five vice-presidents, for example, are Ghazali Jaafar (Central Mindanao), the MILF's vice-chairman for political affairs; Hussin Munoz (Eastern Mindanao); Alim Ali Solaiman (Northern Mindanao), also vice-chairman; Mohagher Iqbal (Southern Mindanao), the MILF chief negotiator; and Ma'amor Estino (Western Mindanao). The UBJP will focus on Maguindanao and Lanao del Sur first; Cotabato City, Isabela City on Basilan and the municipalities in Lanao del Norte second; and the island provinces and *barangays* in North Cotabato third.¹²³

The UBJP established these priorities through a political mapping done in November 2014. It

119 IPAC interview with Mayor Beng Climaco, Zamboanga City, 26 March 2015.

120 Ibid.

121 IPAC interview with a senior OPAPP official, Manila, 13 March 2015.

122 Celso Lobregat filed one of the petitions with the Supreme Court in 2008 to request a temporary restraining order to prevent the Arroyo government from signing the Memorandum of Agreement on Ancestral Domain (MOA-AD) with the MILF. See International Crisis Group, "The Philippines: The Collapse of Peace in Mindanao", Asia Briefing No. 83, 23 October 2008.

123 IPAC interview with Chairman Murad Ebrahim, Camp Darapanan, 16 March 2015.

appears that they are focusing on areas that seem most winnable in the plebiscite (Maguindanao and Lanao del Sur), followed by those that they would most like to join the Bangsamoro. The islands are less of a priority, except for Isabela City, because the MILF sees them as the Aquino government's responsibility. The MILF may be discouraged by its efforts to organise in places where it lacks a built-in support base.¹²⁴ It also may be wary of campaigning vigorously in the island provinces as it does not want to be seen meddling in politics in the archipelago; this could strengthen the perception of its being an interloper.

For the grassroots campaign, the MILF is leaving much of the work to its allies in civil society, notably the Mindanao Civil Society Organization Platform for Peace, an umbrella group led by the Cotabato City-based Consortium of Bangsamoro Civil Society. The Bangsamoro Transition Commission, given its six commissioners from the island provinces and its ample budget, also needs a freer rein to play an active role in information campaigns and advocacy in these provinces. It needs to operate independently of its chair, the overstretched Mohagher Iqbal, so that it can take the initiative and maximise the time available to campaign before a plebiscite.¹²⁵

A. Reaching Out to the MNLF in Sulu

With relations between Nur Misuari and OPAPP at an all-time low after the Zamboanga siege, the MILF should build bridges with the MNLF in Sulu directly. The best way to do so ahead of the plebiscite is to include MNLF members in the MILF's discussions with the Philippine government on amnesty provisions.

The comprehensive agreement's annex on "normalisation" has provisions on security issues such as reducing Philippine military presence, socio-economic development, transitional justice and confidence building. Implementation has four phases and runs in parallel to the passage of the BBL and the creation of the Bangsamoro. Despite delays in Congressional approval of the bill and the Justice Department's likely decision to file fresh charges against some MILF members for the Mamasapano incident, the Aquino government and the MILF have been able to move forward with certain aspects of the normalisation annex.

As described in the annex, confidence-building measures include "amnesty, pardon and other available processes towards the resolution of cases of persons charged with or convicted of crimes and offences connected to the armed conflict in Mindanao".¹²⁶ The MILF is submitting a list of specific cases, including ones involving MNLF and ASG members, which the Aquino government will review for possible sentence reductions and other measures. As part of the process of identifying these cases, the MILF is reaching out to the families of the individuals accused or in jail. This is an important opportunity to build trust with other non-state armed groups and provide tangible evidence that the peace process will benefit them too. The government and the MILF have been working quietly to move these discussions forward and should continue to do so regardless of what happens with the BBL in Congress.¹²⁷

B. Targeted Campaigning for Specific Constituencies

The MILF, OPAPP and other allies should take seriously the concerns with the BBL that different constituencies have raised in various public hearings and civil forums. Concerns of the Sama in Tawi-Tawi are a case in point. Members of the smaller Islamised ethnic groups from

124 IPAC interview with a technical advisor to the MILF, Manila, 18 March 2015.

125 The Bangsamoro Transition Commission did not meet for a full two months following the Mamasapano incident. This was a missed opportunity to have non-MILF faces play a bigger role in defending the BBL.

126 Comprehensive Agreement on the Bangsamoro, Section J (Confidence-Building Measures), Part 2.

127 IPAC interview with technical staff from OPAPP and MILF negotiating teams, Manila, 18 and 25 March 2015.

the islands—the Sama and the Badjao, who are most numerous in Tawi-Tawi—are interested in claiming their rights under the 1997 Indigenous Peoples Rights Act (IPRA), which was not mentioned in the BBL until the Ad Hoc Committee revised the bill; the act is not currently in effect in ARMM.¹²⁸ These groups are concerned they will remain under-represented in the Bangsamoro parliament, as it is non-Moro indigenous peoples that are currently allocated sectoral seats; they would like Moro indigenous peoples to receive the same.¹²⁹

Identity politics is a difficult issue for the MILF, as its reaction to the Ad Hoc Committee's revision showed. In negotiations in the mid-2000s, non-Muslim indigenous peoples were simply defined as Bangsamoro, much to their dismay.¹³⁰ In the BBL, however, their distinct identity is recognised and they are guaranteed other rights and privileges.¹³¹ The MILF is reluctant to break down the notion of Bangsamoro identity into component parts and treat groups like the Sama and the Badjao as indigenous peoples as well. The UBJP, OPAPP, the transition commission and civil society partners doing outreach to these communities need to explain the division of district seats for the Bangsamoro parliament. They should emphasise that the BBL allows for redistricting if the boundaries do not ensure adequate representation, so that Sama in Tawi-Tawi would be able to elect Sama rather than Tausug representatives.¹³²

The MILF and its allies should also develop a targeted strategy for the Christian minority in Basilan, especially in Isabela City where the Catholic bishop's reservations about the BBL are well-known.¹³³

C. *Building Support among a Wider Group of Elites*

The parliamentary system and the Bangsamoro's increased access to and control over resources appeals to a broad cross-section of elites such as mayors, civil society activists and academics. This group—while not a bloc or a formal alliance—represents the middle ground between the provincial governors and the general population. They have leverage in both directions, which makes them useful allies.

Elites who understand how the parliamentary system will change decision-making within the regional government see it as building consensus across Mindanao's many social, cultural and political divisions.¹³⁴ With more than twice as many seats in the Bangsamoro parliament as compared to the ARMM's regional legislative assembly, there are both more slots but also more ways to get elected, thanks to the combination of district and party list seats.¹³⁵ The party list option in particular is encouraging individuals who view themselves as representatives of specific sectors to contemplate forming parties, while under the old system they never would have run

128 See International Crisis Group, "The Philippines: Indigenous Rights and the MILF Peace Process", op. cit.

129 This was also raised in the Congressional hearing on Basilan, where the Yakan predominate but are still one of the smaller ethnic groups compared to the Tausug, Maguindanao and Maranao. Minutes of the public hearing/consultation of the Ad Hoc Committee on the BBL, Isabela City, Basilan, 20 November 2014.

130 "It is the birthright of all Moros and all Indigenous Peoples of Mindanao to identify themselves and be accepted as the 'Bangsamoro'.... The freedom of choice of the indigenous people shall be respected." Memorandum of Agreement on Ancestral Domain, 2008.

131 There is no mention of indigenous peoples in the definition of the Bangsamoro in the BBL. Their freedom of choice is guaranteed in Article II, Section 2. A list of additional rights appears in Article IX, Section 5 and includes equitable share in revenue from resources in their ancestral lands, and free and prior informed consent.

132 See the summary of the public hearing conducted by the Senate, by Amina Rasul, "Why not BangsaSama or Bangsa Mindanao?", *BusinessWorld*, 16 November 2014. See draft BBL, Article VII (The Bangsamoro Government), Section 8 (Redistricting).

133 Bishop Jumoad is reportedly critical of the implementation of the peace agreements because he does not believe the plebiscite will be clean as the Aquino government already knows what outcome it wants. IPAC interview with a member of the Bangsamoro Transition Commission from the islands, 23 March 2015.

134 IPAC telephone interview with member of the donor community, 25 March 2015.

135 The RLA currently only has 24 seats.

for office.¹³⁶

The UBJP is interested in attracting candidates in the island provinces and has an open membership policy, even though party officials will all be MILF members. In the Sulu archipelago just as in central Mindanao, the UBJP believes it can attract people frustrated with the status quo, who feel that no matter how qualified or popular they are, “if you are up against a family clan, you lose”.¹³⁷

The long-term success or failure of the Bangsamoro hinges on whether the parliamentary system will indeed improve governance and enhance accountability. This requires political parties that reflect the concerns of voters and are responsive to them; only then might elections involve something other than alliances based on family ties and ethnicity, even though these factors are unlikely to go away. Donors can also play a role by providing support to parties beyond the UBJP. External technical assistance is useful and needed, given that the party system throughout the Philippines is extremely weak.

Even elites who have fared well under the current system, such as mayors, see certain advantages to the Bangsamoro, as they hope the benefits of a larger budget and powers might trickle down to them. OPAPP believes the Bangsamoro’s block grant from the central government, and its ability to raise revenues from developing the region’s natural resources are major selling points of the BBL.¹³⁸ Mayors from Sulu province appear to agree.¹³⁹ These traditional politicians feel reassured that the Bangsamoro government will have enough of its own money that it would not need to take away or draw on the budgets of provinces and towns. OPAPP and the BBL’s backers in the Ad Hoc Committee have also pointed out that with the Bangsamoro having greater powers, the parliament could choose to authorise local governments to take on more responsibility as well.

D. Managing Risks of Overt Opposition from Sulu

To mitigate the risk that Sakur Tan or, less likely, the Sahalis or the Akbars, would openly organise a no vote in their provinces if Congress passes the BBL by June, the Aquino government needs to hold the plebiscite as soon as possible afterwards, ideally before October 2015. In the meantime, the executive branch needs a point person in charge of politically backstopping OPAPP’s information campaign in support of the BBL. The president does not have nearly as much clout as he did before the Mamasapano incident, which makes it all the more important to entrust oversight of the plebiscite to someone senior within his inner circle. Given cabinet secretary Jose Rene Almendras’ role since late 2014, he might be the best candidate.

The MILF needs to be strategic about the elite bargains it strikes so that it does not compromise the vision for the Bangsamoro. While MILF leaders will have final say within the Bangsamoro Transition Authority as appointed by the president, they are more open to working with a wider range of individuals after the first regular elections in 2016. The MILF will almost certainly opt to fill the role of chief minister, however, with someone of the stature of Mohagher Iqbal or perhaps the UBJP secretary-general Sammy Al-Mansour. If the MILF is able to muster the necessary votes, the chief minister would then have wide discretion in appointing the cabinet, as only one half of the ministers must be drawn from the ranks of the legislature.

After Mamasapano, the MILF has less leverage than it expected to cut deals with the traditional politicians. Had President Aquino been able to implement the peace agreements on the planned timetable, the UBJP would likely be in a strong position ahead of the first elections under the new system. This in turn would enable the MILF to bargain from a position of strength

136 IPAC interview with a member of civil society, Cotabato City, 17 March 2015.

137 IPAC interview with a member of the UBJP, Zamboanga City, 28 March 2015

138 IPAC interview with senior OPAPP official, Manila, 13 March 2015.

139 IPAC interviews with mayors from the Sulu archipelago, Manila, 21 and 25 March 2015.

even before the plebiscite, as it would have been in a strong position to continue in power after transition period. This is no longer the case.

The MILF has two options for what it could offer Sakur Tan. First, Chairman Murad could simply provide a guarantee that the transition authority and the Bangsamoro government, assuming the UBJP does well in 2016, will not interfere in Sulu. This would work if Sakur is in fact not interested in moving to regional politics and is content to run his province. Second, Chairman Murad could offer a position within the Bangsamoro government to Sakur, likely a ministerial post. Whether this would be enticement enough for Sakur is not clear. The other option for Sakur is to simply bide his time, just as he has many times before in provincial politics and wait to assess his chances of becoming chief minister even without striking a deal with the MILF. For example, he could forge an alliance across ethnic lines with traditional politicians from central Mindanao who are not as sympathetic to the MILF. But in order for this possibility to even be open to him, Sulu needs to join the Bangsamoro.

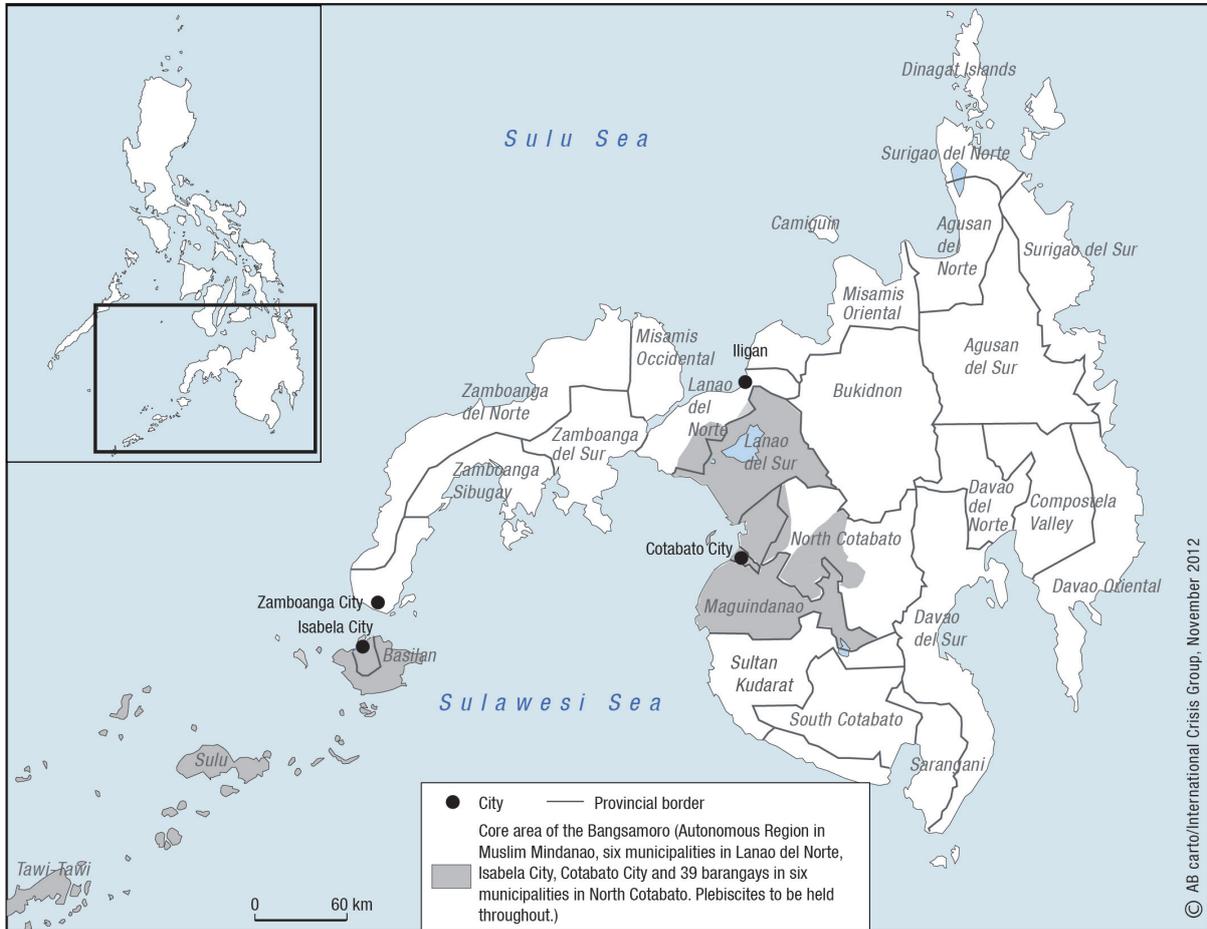
VIII. CONCLUSION

The framework and comprehensive agreements are the best chance that the Philippines has ever had to end decades of insurgency, and the Aquino government is best placed to implement them. They reflect this administration's vision and the trust built up between the president and Chairman Murad. There may not be another opportunity like this for a long time, and it is in everyone's interests that the BBL be passed, and that the Sulu archipelago be included in the new region.

Resistance from the archipelago was predictable. In hindsight, President Aquino and his advisers should not have been so confident about his ability to influence the provincial governors when the peace agreements clearly threatened their ability to wield power and his own authority was bound to wane as his term came to an end. The strategy for the plebiscite, which was always high risk, is on even shakier ground after the Mamasapano incident. If the plebiscite happens, the MILF and the Aquino government will need to broaden their alliances in the archipelago and be careful with the elite bargains they strike. If the Bangsamoro ends up smaller than ARMM because one or more of the island provinces opts out, it will be a serious blow to what the MILF, and the MNLF before it, fought for.

The MILF and the Aquino government need carrots and sticks to deal with the ruling elite, especially Sakur Tan, to ensure the Sulu archipelago opts in. The MILF should demonstrate their leaders are willing to govern in partnership with others and transcend ethnic and regional divisions. At the same time, no one should forget that the long-term goal is not only peace in Mindanao, but also cleaner, more representative politics in which all voices, not just those of elites, are heard.

Appendix A: Core Territory of the Bangsamoro



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Appendix B: Glossary

ARMM	Autonomous Region of Muslim Mindanao
ASG	Abu Sayyaf Group
BBL	Bangsamoro Basic Law
BIFF	Bangsamoro Islamic Freedom Fighters
CAB	Comprehensive Agreement on the Bangsamoro
FAB	Framework Agreement on the Bangsamoro
IPRA	Indigenous Peoples Rights Act
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
OIC	Organisation of Islamic Conference
OPAPP	Office of the Presidential Adviser on the Peace Process
UBJP	United Bangsamoro Justice Party

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