

FRAMERS OF THE 1987 CONSTITUTION SUPPORT BANGSAMORO

January 9, 2015

PREAMBLE: *In a first formal meeting since the drafting of the 1987 Charter, former members of the Constitutional Commission forged a consensus on the issue of Bangsamoro. Representing the unanimous sentiment of fourteen of the eighteen surviving members of the 1986 Constitutional Commission (four of us are either bed-ridden or could not be reached) out of the original forty eight, this Statement on the Bangsamoro deals **with the vision, spirit and the core principles behind the provisions on autonomous regions which to our mind constitute the essential constitutionality of the proposed Bangsamoro Basic Law.***

I. Our Position

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

We fully support the creation of the Bangsamoro Autonomous Region.

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

We were aware in 1986 that we were imperfect instruments of the sovereign will of our people. But however imperfect our perceptions then or our fading memories today, recurring questions on the “constitutionality” of the Comprehensive Agreement on the Bangsamoro (CAB) and of the proposed Bangsamoro Basic Law (BBL) lead us to offer our insights.

II. Bangsamoro is about the development of people, not about the constitutionality of words.

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

Social justice that calls for genuine social change is the central theme of the 1987 Constitution; and here, it is broader in scope and intent than in the 1973 and the 1935 Constitutions. **An interpretation of any relevant provision of the Constitution that results in war and abject poverty would be contrary to its intention.**

During the deliberations of the Commission, the testimony of an old man from the Cordilleras is instructive on the real issue that should be considered:

“We asked government for a teacher, it did not give us one, we asked for help to repair our road, it did not send us any, we asked for a doctor, it did not send us one. Instead government men came to build a dam and sent in the Philippine constabulary and the army. This -- we did not ask for.”¹

It is a simple statement but one that has far-reaching implications on public policy – the **people of the Cordilleras and of Muslim Mindanao do not want war. They want human development and they want to be heard.** And the government needs to listen. This is mandated by a new provision in the 1987 Constitution on the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making.²

The 2005 Philippine Human Development Report entitled ‘Peace, Human Security and Human Development’ validates the context and vision of the Constitution. It discusses human development in all its dimensions, with the following excerpts of the Report:

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

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

III. The larger context of the CAB and BBL

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

¹ RCC, Volume III, August 11, 1986, page 172

²“The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged.....” (Article XIII, Section 16)

Excerpts from a paper sent to the Constitutional Commission in 1986 briefly describes that perspective:

“Autonomy is an expression of the Bangsa Moro’s conviction of its being a viable alternative to separation....The Bangsa Moro is historically and culturally a distinct and separate nation and the political fusion with the Christian majority is workable only under a framework of political autonomy which shall allow the full flowering of the genius of Bangsa Moro in the context of his Islamic culture.”³

The full flowering of the genius of a people is human development. And it needs a place of its own because it is a basic human right.

Both sovereignty and property are premised on exclusion. That leaves us with a problem. How do we reconcile our needs and our borders?”

If all human beings are free and equal, then each person is entitled to belong somewhere and to obtain the things they need to live and to be free. If people cannot obtain what they need where they are, or if they have no place where they are entitled to be, then our exclusion of them denies their humanity.”⁴

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

IV. Social Justice under the 1987 Constitution.

The flagship provision is Article XIII, Section 1 which states:

The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use and disposition of property and its increments.

While all the ramifications of social justice cannot be fully discussed, the provision clearly decrees the removal of cultural inequities.

Social justice in the 1987 Constitution is not just about negative rights to be protected such as civil and political rights in the United States Constitution and in the International Covenant on Civil and Political Rights. nor is it limited to

³ RCC, Volume III, August 11, 1986, page 184

⁴ Titles of Nobility: Poverty, Immigration and Property in a Free and Democratic Society, by Joseph William Singer, Journal of Law, Property and Society (August 2014),

“equal opportunity”. It is also about affirmative action and the attainment of desirable social and economic outcomes. It is about the development and the liberation of people. Especially the poor and the indigenous peoples who are being left behind because of an often undue focus on growth per se, on market mechanisms which are never perfect and have no moral limits and on deference to the interests of the rich and the powerful in social legislation, jurisprudence and program implementation.

V. Closing the gap between law and justice

International Law is not an iron law imposed by a supra-body above all nations that disallows interpretations of words and language to fit the diverse situations of individual nations.

We are not restricted from defining Bangsamoro as an integral and permanent part of the Philippines, which is “sui generis” descriptive of the historical fact that it is the “homeland” of Filipino citizens with institutions of governance that conform with our Constitution. And our decision, rooted in its own history, can become part of “international law” upon its approval in a plebiscite of those affected by the creation of Bangsamoro, and by its acceptance by the community of nations.

According to a learned justice of our Supreme Court, the whole development of law is about closing the gap between law and justice,⁵ Tracing the changing jurisprudence on human rights from the infamous Dred Scott 1847 Supreme Court ruling that blacks are inferior to whites, to the 1896 Plessy promulgation of “separate but equal doctrine” and to the 1954 Brown decision which finally closed the gap, he concludes:

Historically, the gaps between law and justice have been closed either through force of arms or through force of reason. This constant struggle to close the gaps through reason and the legal processes may be tedious but this is the only way to avoid a bloody closure of the gaps between law and justice. This is the only guarantee to maintain peace in our land.

Reason tells us that a Bangsamoro Autonomous Region can close the centuries-old gap between law and justice and that we are on the cusp of a historic opportunity to make it happen.

The negotiations on a Bangsamoro peace agreement have dragged on for 17 years. The Aquino government committed itself to bring the peace process to fruition and has earned the trust of the Bangsamoro people that it will stay the course. **We must bring about that fruition, not because it is the will of one man, but because it is the shared vision of a nation.**

⁵ Excerpts from a speech of Supreme Court Justice Antonio Carpio during the regional convention of Mindanao lawyers on November 20, 2007.

The efforts and sincerity of both panels are demonstrated by the broad consultations that were conducted, by the explicit requirement in the BBL that the new organic law should be in conformance with the Constitution, and the unequivocal statement that the Bangsamoro territory shall remain part of the Philippines. A new organic law is the second of a two-stage process mandated by Article X, Section 18 and is the proper subject of the Supreme Court power of judicial review. The CAB is equivalent to the first stage of that process

VI. The price of peace

The story of how the Israel-Egypt Peace Agreement of 1978 despite its acknowledged shortcomings, at least restored peace to their borders that lasts to this day, exemplifies what ultimately counts in a peace agreement:

After 13 days of negotiations brokered by then President Jimmy Carter of the United States, Israel Prime Minister Begin refused to sign the Agreement already signed by Egyptian President Anwar Sadat, primarily because it called for the return of certain annexed territories to Egypt which he had said was non-negotiable:⁶

“There was a stalemate. The three, by now tired and emotionally drained, were about to depart without any peace accord. As President Carter and Prime Minister Begin were about to depart they remembered that they had earlier agreed to sign photographs for each other’s families. They met on the front porch of Prime Minister Begin’s cabin for the signing. President Carter asked for the names of the children to make the signing more personal and Prime Minister Begin reciprocated. Then President Carter decided to show the photographs of his grandchildren describing the personality of each; Prime Minister Begin did likewise. As they looked at the pictures, tears filled their eyes. What type of world would their grandchildren grow up in? Prime Minister Begin returned to his cabin and re-emerged after five minutes asking to look at the peace proposal once again.”⁷

This is peace-making without borders and self-limiting mental models. But there is always a price to pay for any worthy vision. Sadat was assassinated by disgruntled elements of the military in 1981 but not before he and Begin were awarded the Nobel Peace Prize.

VII. What our people want

The decision on the Bangsamoro will ultimately rest on what the people want of our country. And what the deliberations and the overwhelming vote in the plebiscite for the Constitution tell us is that they dream of **a free people in a democratic society where peace and justice reign.** It was clearly a vision

⁶ 13 Days in September by Lawrence Wright (2014)

⁷ Preaching to a Postmodern World: A Guide to Reaching Twenty-First Century Listeners by Graham Johnston (pages 143-144) which cites President Carter’s *Keeping Faith* as the source.

borne of EDSA – an extraordinary event in our history because it was the coming together of ordinary people from all walks of life to peacefully regain their freedom.

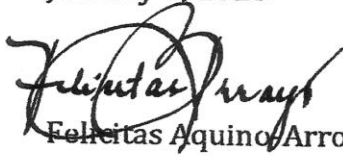
The challenge of the BBL presents to us another chance at national incandescence. It is within our reach. Let us set aside partisan politics and stop the urge to exhibit our ability to find nuances of legalism that can delay, or worse, derail the process, feeding on the cynicism and playing on the fears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

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

It has been 27 years since it was approved by our people but we are still living in the mass poverty, gross inequalities and cultural inequities of the past, and the promise of genuine social change has not unfolded. There is no better way to demonstrate our commitment to peace and development than by giving the Bangsamoro people the opportunity to create a higher and better future for themselves than what they have. **This calls for courageous statesmanship from our leaders and the generosity of spirit of a united nation.**

In turn, the challenge to the Bangsamoro people is to demonstrate the same commitment by treating other indigenous peoples and uniting other Muslim communities with magnanimity and statesmanship. **In this manner, Bangsamoro can be a model for us to do the same for the rest of the country and thereby build together a more just and peaceful nation.**

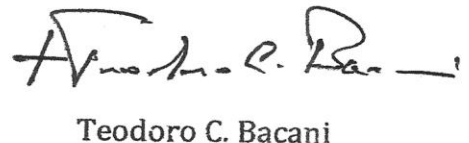
January 9, 2015



Felicitas Aquino Arroyo



Adolfo S. Azcuna



Teodoro C. Bacani



Joaquin G. Bernas



Florangel Rosario Braid



Hilario G. Davide Jr.



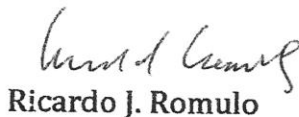
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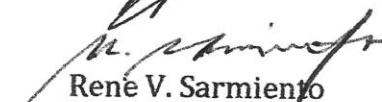
Jose Luis Martin C. Gascon



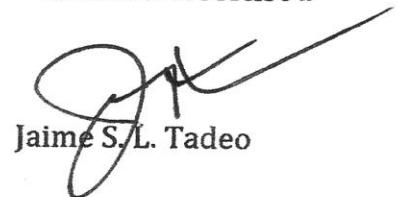
Christian S. Monsod



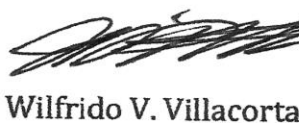
Ricardo J. Romulo



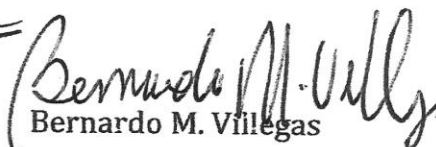
René V. Sarmiento



Jaime S. L. Tadeo



Wilfrido V. Villacorta



Bernardo M. Villegas

Those who are bed-ridden or could not be reached: Ponciano L. Bennagen, Teresa F. Nieva, Florenz D. Regalado, Napoleon G. Rama (4)

In memoriam of those who are no longer with us: Cecilia Munoz-Palma, Yusup R. Abubakar, Ahmad Domocao Alonto, Jose F.S. Bengzon Jr., Lino O. Brocka, Jose D. Calderon, Crispino M. de Castro, Rustico F. de los Reyes, Jose C. Colayco, Roberto R. Concepcion, Vicente B. Foz, Serafin V. C. Guingona, Alberto M. K. Jamir, Jose B. Laurel Jr., Eulogio R. Lerum, Regalado E. Maambong, Teodulo C. Natividad, Jose N. Nollado, Ambrosio B. Padilla, Blas F. Ople, Minda Luz M, Quesada, Cirilo A. Rigos, Francisco A. Rodrigo, Decoroso R. Rosales, Jose E. Suarez, Lorenzo M. Sumulong, Christine O. Tan, Gregorio Tingson, Efren B, Trenas, Lugum I. Uka, (30)