

Philippines: Pre-Election Tensions in Central Mindanao

I. OVERVIEW

As the Philippine election on 10 May 2010 draws nearer, voters in central Mindanao are focused on the political fallout from the “Maguindanao massacre”; clan politics; the new automated election system; and whether any agreement between the Philippines government and the Moro Islamic Liberation Front (MILF) is possible before President Gloria Macapagal-Arroyo leaves office on 30 June.

Voters will choose a new president and vice president, members of the national Congress, and some 17,000 local executive and legislative positions. The biggest question in central Mindanao, however, is how much the power of the Ampatuan clan has been weakened by the arrests of its senior members for suspected involvement in the massacre. Fear that lawyers for the patriarch, Andal Ampatuan Sr, will somehow find a way to obtain the release of their client remain palpable in and around Maguindanao province. As pre-trial legal proceedings drag on, there is strong evidence of the family’s ability to bribe and intimidate witnesses, and the worry about Andal Sr’s eventual release is not without basis, especially given the controversial decision by the Department of Justice in mid-April to drop charges against two members of the clan.

Even if the political hold of the clan has been broken, at least temporarily, by the arrests, and new opportunities have opened up for its political rivals, the dominance of clans in Maguindanao politics remains unaffected. The Ampatuans’ opponents may give warlordism a gentler face, but political change would consist of substituting one family for another, not of any fundamental alteration of the system.

Sources of conflict remain high. If the 2009 massacre did not have its roots in a blood feud (*rido*) between clans, it may have created one going forward between the families of the killers and their victims. The arrests of the Ampatuans have also emboldened some to pursue *rido*-related revenge on members of the family’s private army. The likelihood of violence is so great that the military has placed Maguindanao on highest alert through the elections.

And in the midst of it all, pressure to produce an interim agreement between the Moro Islamic Liberation Front

(MILF) and the Arroyo government remains high. The government is desperate for a pact so that Arroyo can leave office on a high note; the MILF will not be forced into an agreement for agreement’s sake. Some local political candidates have seized on the possibility of a pact to deliberately fan Christian concerns that they are about to be rushed into an agreement they do not want and say they have had no opportunity to discuss.

If no substantive agreement is reached before Arroyo leaves office, responsibility for continuing the negotiations will fall to her successor, and it is open to question whether any of the top contenders has the interest or political will to push forward with peace. Failure of a new president to engage could undermine the relatively moderate MILF negotiating team, opening the possibility that a younger, more militant splinter group could emerge.

II. THE AFTERMATH OF THE MASSACRE

The ripple effects of the 23 November 2009 massacre in which members of the Ampatuan clan slaughtered 58 people, half of them journalists, most of the rest relatives and supporters of a political rival, Esmael “Toto” Mangudadatu, are still being felt.¹ Legal proceedings against Andal Ampatuan Jr, who led the killers; his father, Andal Sr, who gave the orders; and 195 other respondents are underway in Manila, and the clan’s stranglehold on Maguindanao politics has been seriously weakened. A combination of money and intimidation, together with fears that the legal system will fail to keep Andal Sr behind bars, means that it would be premature to write off senior clan members as political has-beens. The 16 April dismissal of charges against Zaldy Ampatuan, the governor of the Autonomous Region of Muslim Mindanao (ARMM) – who was in Manila when the massacre occurred – means he may be able to resume his position, giving a new lease on life to family fortunes.

¹ On the massacre and its immediate aftermath, see Crisis Group Asia Briefing N°98, *The Philippines: After the Maguindanao Massacre*, 21 December 2009.

A. THE PRE-TRIAL PROCEEDINGS

The complicated proceedings began in January 2010 with a bail hearing for Andal Jr, followed by a series of motions and counter-motions as the Ampatuans' lawyers tried every possible trick to get their clients released, prosecution witnesses discredited and the judge dismissed. By late April, the actual trial still had not yet started, but a number of significant developments had taken place.

Rebellion charges against senior family members were thrown out on 26 March. Initially, only Andal Jr was arrested for multiple murder – 57 counts, one for each of the victims identified.² Others, including Andal Sr, were arrested for rebellion in late November and early December, with the government arguing that the charge was justified because, among other things, armed civilians loyal to the Ampatuans were massing in Maguindanao, local government was paralysed, and the courts were not functioning.³ The suggestion that the government faced an imminent threat was reinforced by President Arroyo's imposition of martial law in the province from 5 to 12 December. While few people, if any, believed that the Ampatuans were going to move against the Arroyo government, their close political ally, the military's emergency powers allowed the army to conduct searches and make arrests at a time when many of the local police were on the family's payroll and themselves complicit.

In mid-December, the defence team filed a motion to review the rebellion charges.⁴ On 26 March Judge Vivencio Baclig ruled that the prosecution lacked evidence to establish that the Ampatuans were about to mount a public armed uprising against the government.⁵ On the contrary, a photograph of a rally in support of the allegedly rebellious accused showed a supporter holding a placard that read: "We love you Madam President".⁶ Prosecutors said they would appeal. In the meantime, Judge Baclig ordered defendants to be freed "unless they are held by a court of law for other lawful causes" – and thanks to the persistence of another judge, they were.⁷

Judge Jocelyn Solis Reyes had been locked in battle with the Ampatuan lawyers to get other senior members of the clan included in the indictment of Andal Jr, so that if the rebellion charges were dropped, they would still be under arrest for multiple murder. She had two choices – to try and bring all 196 defendants in on the same indictment, or to divide them into groups so that the senior Ampatuans would be included in a different dossier. Lawyers for the Mangudadatu family preferred the first option, because the number of reliable witnesses was limited, and if all the accused were grouped together, each witness would only have to testify once, thus reducing exposure to intimidation.

A lawyer for the journalists' families, however, was worried that evidence against the 196 varied dramatically: from strong, in the case of Andal Sr, to very weak, in the case of some who were only names on a payroll. Grouping them together increased the possibility that the Ampatuan lawyers could find legal loopholes in the weaker cases to bring down the stronger. On 24 March, two days before the decision on the rebellion charges, Judge Reyes amended the original indictment against Andal Jr to include 189 other defendants.

A third major development took place on 16 April, when Acting Justice Secretary Alberto Agra asked prosecutors to drop charges against suspended ARMM Governor Zaldy and his cousin, Akmad, the elected mayor of Mamasapano, Maguindanao and acting vice-governor of Maguindanao.⁸ The governor had presented proof, in the form of plane tickets and cell phone records, that he could not have been present when the massacre took place or at a planning meeting in the family compound the previous day. Akmad argued that he had not been named by any of the witnesses and that he was in Mamasapano on both days. The prosecution had claimed that both were part of a broader conspiracy.

Not only did the victims' families and media organisations cry foul, but state prosecutors working for the Justice Department also publicly condemned the move on legal grounds.⁹ The Integrated Bar of the Philippines called it

² A 58th victim, another journalist, was identified through his dentures, but his body was never found.

³ "QC court junks rebellion raps against Ampatuans", *Philippine Daily Inquirer*, 30 March 2010.

⁴ Technically, it was a motion for judicial determination of probable cause.

⁵ Justice Minister Agra said the government would probably file a motion for reconsideration with the lower court or ask for a judicial determination of probable cause from the Court of Appeals. "Andal Sr will not walk despite release order", *The Manila Times*, 30 March 2010.

⁶ "QC court junks rebellion raps against Ampatuans", *Philippine Daily Inquirer*, 30 March 2010.

⁷ "Dropping of rebellion case signals whitewash of Ampatuan cases – victims' kin", *Philippine Daily Inquirer*, 30 March 2010.

⁸ Akmad was appointed by Zaldy, who is also his brother-in-law, as acting vice-governor of Maguindanao after the province of Shariff Kabunsuan was declared unconstitutional. See Crisis Group Briefing, *Philippines: After the Maguindanao Massacre*, op. cit.

⁹ "Is Zaldy Ampatuan's release connected to 'Villarroyo'?", *Philippine Star*, 22 April 2010. The prosecutors said that the previous justice secretary, who stepped down to contest the May elections, had ceded authority to the trial court, and that, therefore, Agra had no authority to dismiss the charges. There was widespread speculation in the media, including in the article cited above, that Zaldy Ampatuan had threatened to expose the nature of the Ampatuan rigging of the 2004 election that secured a victory for President Arroyo.

“highly irregular”.¹⁰ Lawyers for the victims immediately filed appeals, and while they are being considered, the two men remain in detention.¹¹

It remains unclear how the dismissal of charges will ultimately affect Zaldy’s role as governor. He remains suspended, but his three-year term runs until 30 September 2011, and if the dismissal is upheld, he still could return to office.

B. WITNESS PROTECTION

Witness protection has become a major issue, especially after the very public recantation by a key witness whom everyone assumed had been threatened, bribed or both by Ampatuan clan members.

Anwar Masukat, a police officer, had become a star prosecution witness on the basis of a 12 December 2009 affidavit in which he testified that Andal Jr had led the massacre. On 3 January, he recanted, saying he had signed the document under duress and that the real leader of the massacre was the Ampatuan town vice-mayor, Rasul Sangki. Sangki’s sister, whose husband is an Ampatuan, also submitted an affidavit saying her brother and father planned the massacre.¹² Sangki, Andal Jr.’s nephew, testified against Andal at his bail hearing on 13 January 2010.¹³

Then on 21 February 2010, the brother of another police officer, Rainier Ebus, who had given eyewitness testimony about Andal Jr’s role, was shot and wounded. The Ampatuans reportedly had tried to buy Ebus’s recantation for 5 million pesos (\$112,800) and when he refused, went

after his brother. Two family members of another witness were also shot after he refused to recant.¹⁴

In early March, another prosecution witness, who had been one of the gunmen in the massacre, identified only as “Jessie”, formally asked for government protection, saying he had been threatened.¹⁵ On 6 April, Rasul Sangki’s uncle, the businessman Mohamadisa Simpang Sangki, was shot and stabbed to death by unidentified men in Cotabato City. The murder is under investigation, but speculation in the local media centres on retaliation by the Ampatuans.¹⁶

III. CLAN POLITICS

Before the massacre, the Ampatuans had local elections in Maguindanao sewn up. The questions now are what residual strength remains; whether they will be able to rule through proxies and return formally to power later; and whether any of the clans poised to succeed them would be significantly better, although there is no possibility they could be worse.

A. REMAINING AMPATUAN POWER

Regardless of how the elections turn out, the clan retains significant wealth, much of it gained through pocketing allocations from Manila for local government, known as internal revenue allotments (IRA). According to one estimate, the Ampatuans acquired some 3.42 billion pesos (about \$77 million) through their control over the years of the governorship of ARMM, as well as of Maguindanao and dozens of mayoral posts.¹⁷ That wealth itself will ensure the family’s continued political weight.

Their private army, which consisted of military auxiliaries known as Special CAFGUs; civilian volunteers (CVOs) and members of the local police force, has been weakened but not destroyed. The Special CAFGUs have been disarmed, and most of the police force has been re-

¹⁰ Justine Espina-Letargo, “Order to clear Ampatuans shows ‘crisis of justice’”, Philippines Center for Investigative Journalism, 19 April 2010.

¹¹ Attorneys Nena Santos, Gemma Oquendo and Prima Jesusa Quinsayas filed a Motion for Reconsideration (MR) on 22 April and a supplemental MR on 30 April. Attorney Harry Roque, acting for some of the journalists, filed a Motion to Vacate and Attorney Michael Mella filed a separate MR. According to these lawyers, once a case is filed in court, the Justice Department should have no more authority over it. Judge Solis Reyes filed the commitment order formally arresting Zaldy and Akhmad for multiple murder on 15 April, the day before Secretary Agra’s intervention. Crisis Group communication with prosecutor, 3 May 2010.

¹² “Witness vs Ampatuan recants”, *Philippine Daily Inquirer*, 20 January 2010.

¹³ On 18 January, armed men burned down eight houses near a farm owned by Sangki in Salman village, not far from the massacre site. The incident was initially reported as retaliation by Ampatuan loyalists for Sangki’s testimony, but it was later shown to have no connection. “Houses burned in Ampatuan not owned by Sangki”, *Sun-Star Davao*, 19 January 2010.

¹⁴ “Philippines: Protect Witnesses to Maguindanao Massacre; Two Relatives of Witnesses Killed; Many Suspects Remain at Large”, Human Rights Watch, 8 March 2010.

¹⁵ “Maguindanao massacre witness fears for his life”, *Philippine Star*, 11 March 2010.

¹⁶ “Maguindanao massacre witness’ uncle shot dead”, Abs-cbn News.com, 6 April 2010.

¹⁷ Carolyn Arguillas, “The poor get poorer, Ampatuans get richer as IRA billions pour in”, in “The Maguindanao Chronicles: Reports on Politics, Murder and the Quest for Justice”, Philippines Center for Investigative Journalism, 29 March 2010.

placed.¹⁸ Local military sources said that the number of armed CVOs at large was still “in the hundreds”, but they were dispersed rather than concentrated in a few areas. Nevertheless, he said, they were probably still on the family payroll and able to receive instructions by mobile phone.¹⁹

Arrests of their relatives have not deterred many Ampatuans from standing for public office. Indeed, the detained patriarch, Andal Sr, is still on the ballot for vice-governor of Mindanao, a post he is contesting against his daughter, Shaydee Ampatuan-Abutazil. (With a reported six wives and 40 children, he has no shortage of immediate family members to field as candidates.)²⁰ Some 50 others are running for office including many of the Ampatuan wives: Andal Jr’s wife is standing for mayor of Datu Unsay town; Zaldy’s wife is a candidate for mayor of Datu Hoffer Ampatuan town; and the wife of Sajid Ampatuan, also detained for his role in the massacre, is standing for mayor of Shariff Saydona Mustapha town.²¹ In Shariff Aguak, the capital of Maguindanao, Anwar Ampatuan, one of the accused, is a candidate for vice-mayor, while his wife, Zahara, is standing for mayor.²² There is a strong likelihood that the Ampatuans will continue to control government at the municipal level in much of Maguindanao, regardless of what happens in the governor’s race.

Andal Jr initially intended to seek the governorship but was arrested before he could file his candidacy papers. A leading member of the Sinsuat clan, Ombra Sinsuat, then agreed to stand for governor, some say as a proxy for the Ampatuans. He was later charged with rebellion. His niece is married to Sajid Ampatuan, and the two clans are close, but another candidate for governor, Antao Midtimbang – who by early May appeared to be the front-runner –, is also a long-term political ally of the Ampatuans.²³ Antao’s wife is Zaldy’s daughter. He is also a member of the

Islamic missionary movement, Tabligh-e Jamaat, which his detractors believe might bring in some extra votes.²⁴

The one candidate who has no close ties to the Ampatuan family is Toto Mangudadatu, whose bid for the governorship prompted the massacre. It remains to be seen whether public outrage over the killings will trump wealth and power, but a new automated election system may help reduce the possibilities for manipulation. Toto’s running mate, Ismael “Dustin” Mastura, is convinced that whatever happens with the governor’s contest, he has the vice-governorship in hand.²⁵ Both he and other candidates who are convinced of victory will be prepared to allege fraud if they lose, increasing the prospect of serious disputes after the results are in.

The Mangudadatus are also a tightly knit clan, grown wealthy from their stake in banana plantations and cultivation of tilapia, a local fish. Three of Toto’s brothers are running for mayoral positions, and the chances that Toto would use a victory to create new municipalities for his relatives, as the Ampatuans did when they controlled the province, are high, though the family has a better record of delivering services to their constituents. Toto was also being advised to push to have one of his relatives appointed as acting governor of Maguindanao, so that he could “get on the money train”.²⁶

B. PRESIDENTIAL POLITICS IN MINDANAO

Presidential politics will play less of a role in the Mindanao elections in 2010 than they did in 2004, in part because no clan will be able to throw the election for one of the candidates, as the Ampatuans did then for Arroyo. The three leading candidates as the presidential race entered its final days were were Senator Benigno “Noy” Aquino III of

¹⁸ In its December 2009 briefing on the massacre, op. cit., Crisis Group noted that despite government announcements that members of the provincial police had been transferred to other areas, most had only been given new assignments within the province. By March 2010, however, transfers out of the province had largely taken place.

¹⁹ Crisis Group interview, military officer, Cotabato, 12 March 2010.

²⁰ “Stupendously rich Ampatuans in dirt-poor Maguindanao”, *www.gmanews.tv*, 29 March 2010.

²¹ Carolyn O. Arguillas, “Clans dominate in Maguindanao; 68 Ampatuans, 15 Mangudadatus running”, *www.MindaNews.com*, 8 February 2010. Sajid was appointed acting Maguindanao governor by Zaldy, his older brother, after the Supreme Court ruled the establishment of Shariff Kabusuan province unconstitutional; in late 2009, Zaldy replaced him with their father, Andal Sr.

²² *Ibid.*

²³ Crisis Group interview, Cotabato, 13 March 2010.

²⁴ Crisis Group interview, Cotabato, 14 March 2010. Tabligh-e Jamaat, a Muslim missionary movement based in South Asia, is viewed with suspicion by many of the local political elite. This is in part because, although apolitical, it is seen as hardline, advocating much stricter observance than is the norm in Muslim Mindanao, but it may also be because other candidates fear that support from a mass organisation outside the clan structure changes the political playing field.

²⁵ *Ibid.*

²⁶ *Ibid.* Although businessman Gani Biruar was appointed to the position on 23 February 2010, acting governors (officers-in-charge, OICs) of provinces within the ARMM serve at the pleasure of the ARMM governor. In this case, the appointing officer was Ansaruddin Alonto-Adiong, himself an OIC and serving at the pleasure of the secretary of interior and local government. All these appointments could change after the May elections. Biruar also has ties by marriage to the Ampatuans, but as he noted to a reporter, it is difficult to find someone in Maguindanao who does not. See “Maguindanao has new OIC governor”, *MindaNews*, 24 February 2010.

the Liberal Party; Senator Manuel Villar of the Nacionalista Party and former President Joseph “Erap” Estrada of the Puwersang Masa Party (PMP). Gilberto Teodoro, standard bearer of Arroyo’s party, Partido Lakas-Kampi, was a distant fourth. Manuel “Mar” Roxas was the leader among the candidates for vice president, who is elected separately; he is the running mate of “Noynoy”.

Very few of the leading Maguindanao politicians are allied to the front-runners. One exception is the recently replaced acting vice-governor, Nariman Ambolodto, and her husband, “Teng”, who are among the high-profile supporters of “Noynoy”; if he wins, one of them could find themselves with a key ARMM post – unless Zaldy returns. Among the Maguindanao gubernatorial candidates, Toto is a member of Teodoro’s party (the Ampatuans had been the Lakas-Kampi standard-bearers but were expelled after the massacre); Ombra Sinsuat represents the Bagong Bayan party of Senator Richard Gordon, another presidential candidate who has no chance of winning; and Midtimbang is allied to Estrada’s party.

Overt backing from the Ampatuans has become a political liability for anyone unfortunate enough to receive it, and some candidates have sought to undermine their rivals by suggesting they made secret visits to Andal Sr to ask for support.²⁷ When Andal Jr announced his backing of Villar and showed off an orange wristband from his campaign, the Aquino camp was gleeful.²⁸

In the end, however, the outcome of the presidential race will have little impact on local Maguindanao dynamics. Of more importance will be how quickly winners of local races can move members of their own clan into available slots. There is no end in sight to clan politics.

IV. THE IMPACT OF AUTOMATION

The 10 May polls will be the first fully automated elections in the Philippines. In previous elections, voters expressed their choice using a handwritten paper ballot. Under the new system, each voter will be given a 60-cm, double-sided, pre-printed ballot with ovals beside each candidate’s name.²⁹ Voters will shade in the ovals using special pens; the ballots will then be fed into scanning machines located in each polling station. The machines will print out the results in the station, as well as transmit

them electronically to precinct, municipal, provincial and national levels. The Commission on Elections (Comelec) will declare the results within 48 hours after the polls close.

Automation aims to reduce the level of voter intimidation and fraud that has marred previous elections. When results were counted by hand, candidates could bribe the teachers, who run local polling stations, or Comelec officials, to add or subtract zeros to the tallies – a process known as *dagdag bawas* (add/subtract). It may be possible to manipulate the vote despite electronic transmission of the results if the machines are tampered with prior to election day,³⁰ or if the memory sticks inside the machines are replaced. The higher level of technical skill required makes this tactic unlikely, but there are still other ways of manipulating the vote. A bigger problem may be machine malfunction, without a reliable manual backup in place, or invalid ballots because of problems with the ink or the scanning mechanism or simply insufficient voter education.³¹

Vote buying remains rife; if candidates can no longer bribe the individuals running the polling stations, they can, nonetheless, pressure citizens into turning up and voting en masse. A candidate in Maguindanao described a system of “assists”, whereby the heads of families or town mayors would be paid to deliver a certain number of votes. He gave an example of a female candidate who had 4,000 “assists”, meaning she will get 12,000 votes, assuming families with three eligible voters on average.³² Money will remain a crucial factor in determining the outcome of the election. As one observer said, the men of the Ampatuan family may be in jail, but “their money is not”.³³ Comelec has tried to prevent voters from selling their votes by disabling the feature on the scanning machines that displays how an individual has voted and thus would permit mobile phone photographs of the ballot.³⁴

Uncertainties with the automated system increase the likelihood of candidates contesting the results on technical grounds, and many election observers are more concerned as a result about post-election violence than pre-poll problems. One irony of the Ampatuans’ absolute control in Maguindanao in the past was that their candidate usually ran unopposed, and where there was no opposition,

²⁷ See, for example, “Villar’s wife never visited Ampatuan patriarch”, *Philippine Daily Inquirer*, 19 April 2010.

²⁸ “LP: Ampatuan backing shows Villar’s ‘true colours’”, *Philippine Daily Inquirer*, 17 April 2010.

²⁹ Ballots in the ARMM will be 68-cm long, because candidates’ names will also be printed in Arabic.

³⁰ Scanning machines are due to be delivered to polling stations three days in advance. Crisis Group interview, Manila, 11 March 2010.

³¹ Carlos Conde, “New Voting Technology Raises Fears in Philippines”, *The New York Times*, 13 April 2010.

³² Crisis Group interview, Cotabato, 14 March 2010.

³³ Crisis Group interview, local election monitor, Manila, 11 March 2010.

³⁴ One form of fraud is vote-buying by paying the voter after proof is provided by mobile telephone photograph that the desired candidate was selected.

there was no violence. In a survey conducted by the Asia Foundation in Mindanao, 65 per cent of the respondents agreed with the statement: “it is good to have an unopposed candidate in an election, since it reduces campaign violence and insecurity”.³⁵

V. THE PEACE PROCESS

If Mindanao is not a high priority for any of the presidential candidates, it is nevertheless true that the winner will be responsible for continuing the peace process with the MILF. Both sides would like to see some kind of interim agreement before President Arroyo leaves office at the end of June, although the holy grail of a “comprehensive compact”, finally ending the long conflict between the Philippines government and those fighting on behalf of the Moro people, remains elusive. Some local candidates, including Emmanuel Piñol, standing for governor of North Cotabato, are already seeking to make political capital out of concerns that an interim agreement would hurt non-Moro interests.

Fears of a proposed agreement are merging with election-related tensions to increase the potential for violence. The military put Maguindanao on maximum alert as of 19 April, with 5,000 combat troops on the ready. “We expect long-drawn personal grudges and animosities to erupt during and after the campaign period [with] antagonists making it appear these are politically-motivated”, an officer was quoted as saying,³⁶ just days after two people were killed on 15 April, when a grenade exploded at a political rally in Odin Sinsuat town.

A. MOVES TOWARD AN INTERIM AGREEMENT

Both the MILF and President Arroyo are eager to conclude an agreement before she leaves office, the latter so that she can have a peace legacy, the former so that a new benchmark is set for ongoing talks. After a rocky start in January 2010, when the two sides exchanged drafts of an agreement that were far apart in spirit and substance – one man close to the talks termed the government draft an “insult”, because it made no mention of power-sharing – they have moved closer to defining areas of agreement, in

³⁵ <http://asiafoundation.org/in-asia/2008/08/13/in-the-philippines-peace-elections-autonomy-and-development-in-mindanao/>. In 2007, there was only one set of candidates in twenty of the 22 municipalities in Maguindanao province, and it was peaceful in those municipalities. It was in the other two that people died. Information from Steven Rood, Asia Foundation, 27 April 2010.

³⁶ “More Maguindanao violence as election day nears – military”, *Philippine Daily Inquirer*, 17 April 2010.

part through the constructive role of the International Contact Group.³⁷

There are three options for an interim agreement: the least controversial and least useful would be simply a statement on what has been achieved to date; the second would be a pact that would address more technical issues without necessarily moving the political process forward; the third would be an agreement that made real progress on one or more of the contentious issues that has held up an agreement thus far, with power-sharing and territory being the two largest. The second option looks like it may be the most realistic.

The sides were still far apart in talks in April in Kuala Lumpur, but a decision to focus only on the areas of common ground produced a statement on 21 April that dealt with short term, practical goals and left the hard issues aside. The two sides said they had agreed to work for the “swift return” of the internally displaced and develop guidelines on the removal of landmines and unexploded ordnance. They revived the idea of a Bangsamoro Leadership and Management Institute that had long been under discussion but had never really materialised as a capacity-building organisation for future Moro public administrators. But while the parties also noted they would try for an interim agreement by early May, MILF negotiators were publicly pessimistic much more could be achieved before June.³⁸

B. POTENTIAL SPOILERS

In the aftermath of the Maguindanao massacre, church leaders expressed fear that their parishioners would be even more fearful of an MILF-led autonomous government, because the killings reinforced stereotypes of Muslim violence.³⁹ As moves toward an interim agreement

³⁷ Crisis Group interview, Manila, 11 March 2010. See the five-part series by Patricio P. Diaz, “GRP, MILF Clash in Drafts”, *MindaNews.com*, beginning 18 March 2010. The concept of an International Contact Group to keep both sides honest during the talks emerged from the wreckage of the August 2008 Memorandum of Agreement-Ancestral Domain (MOA-AD). It now consists of representatives of Japan, the UK, Turkey and the NGOs Centre for Humanitarian Dialogue (CHD), the Asia Foundation, Muhammadiyah (an Indonesian social organisation) and Conciliation Resources. In an interview with Crisis Group in Malaysia on 17 March, Datuk Othman acknowledged the helpful role the contact group was playing.

³⁸ “Joint Statement” signed by Rafael Seguis for the Philippines government, Mohagher Iqbal for the MILF and Datul Othman bin Abdul Razak as facilitator, 21 April 2010. See also “MILF sees no breakthrough in talks with gov’t”, *Sun Star Davao*, 21 April 2010.

³⁹ Crisis Group Briefing, *The Philippines: After the Maguindanao Massacre*, op.cit.

seemed to be gathering steam in April, more concerns from the Christian community began to be heard, and the usual spoilers began expressing misgivings. The vice-governor of North Cotabato, Emmanuel Piñol, now standing for governor, has made a career out of stoking Christian fears of an expanded ARMM. Members of his own government said he used a local radio station to warn listeners that their province risked being “swallowed up” by Moros if they were not vigilant.⁴⁰

Realising his potential for mischief, the government has made a point of keeping Piñol briefed about negotiations and assuring him that nothing will be signed in secret.⁴¹ Piñol is using the issue in his campaign, urging that any agreement be left to the new government. In late April, he and his brother, a candidate for Congress, submitted a petition “to stop the government from signing any interim peace agreement unless the same is made public and consultations are properly conducted”.⁴²

This is precisely the tactic Pinol used to scuttle the August 2008 agreement on territory for the future Moro political entity, known as the Memorandum of Agreement-Ancestral Domain or MOA-AD.⁴³ His stance is that ARMM should not be expanded, as it is “a failed political experiment that has become the symbol of corruption and dysfunctional governance”.⁴⁴ The auxiliary bishop of Cotabato, taking a leaf from Piñol’s book, warned of political violence, with armed Christian groups mobilising, if the two sides revived the MOA-AD agreement or some version of it, and said any agreement was better left to a new president and then only if reached after careful study.⁴⁵

C. IF EFFORTS FAIL...

As the talks continue, one question is whether a new government will have any more political will than the current one to challenge vested interests in order to achieve a lasting peace. Another is how long younger militants in the MILF will be content with a never-ending process that keeps fighting at bay without bringing genuine self-government any closer.

The Arroyo government was never willing to take potential spoilers like Piñol head on and either address their concerns or marginalise them in a way that would help push the peace process forward. The leading vice presidential candidate, Senator “Mar” Roxas, is known to be close to Piñol and supported him in his campaign to derail the August 2008 agreement, so his probable victory is not likely to be greeted with joy by the MILF camp.

The most likely scenario for the short term is a continuation of the status quo: talks without conclusion, incremental agreements without a final peace. A government source close to the peace process suggested that the poor quality of the January 2010 draft was evidence that the government was not taking the talks seriously and that however much the Arroyo team wanted an interim agreement, it felt no urgency to make major concessions because it did not believe the MILF leadership had either the will or capacity to return to full-blown armed struggle.⁴⁶

This view was not only rejected by the MILF; it was also rejected by a military officer in Cotabato who said if anything the armed strength of the MILF had increased, through acquisition of Ampatuan arms by its 105th and 106th base commands.⁴⁷ He pointed to a 24-hour clash on 12 January 2010 between combined troops of the 105th and former members of the Moro National Liberation Front (MNLF) against a group of Ampatuan CVOs in Bulatukan, Barangay Kitapok, Datu Saudi Ampatuan.⁴⁸ The clash was the result of a *rido* dispute, he said, but it was proof of the firepower that the MILF could muster.⁴⁹ He and others expressed concern that the militants in the MILF, among them Wahid Tundok of the 105th, could grow weary of the stalemate and take things into their

⁴⁰ Crisis Group interview, Midsayap, 14 March 2010. Pinol is another example of a politician trying to construct a family dynasty. Building on the wealth and power he amassed first as governor, then as vice-governor of North Cotabato, seven of his eleven brothers are running for local office. See Carolyn O. Arguillas, “It’s Still All in the Family in Mindanao’s Political Landscape (5):7 out of 11 Pinol brothers running”, MindaNews, 22 February 2010. He has also earned himself warlord status, with a private armed force reportedly comprised of men from legally-established security agencies hired to guard banana plantations. Crisis Group interview, Midsayap, 14 March 2010.

⁴¹ “Arroyo asked: Let next president sign peace deal with MILF”, *Philippine Daily Inquirer*, 20 April 2010.

⁴² “MILF deplores ‘Pinol’s veto’ on interim agreement”, www.luwaran.com [the official MILF website], 3 May 2010.

⁴³ Crisis Group Asia Briefing N°83, *The Philippines: Collapse of Peace in Mindanao*, 23 October 2008.

⁴⁴ Ibid.

⁴⁵ “Bishop fears govt, MILF pact could spark violence”, CBCP News, 22 April 2010.

⁴⁶ Crisis Group interview, Manila, 11 March 2010.

⁴⁷ Crisis Group interview, Cotabato, 12 March 2010. He estimated that the 105th had acquired between 100 and 150 new weapons from CVOs on the Ampatuan payroll and that the 106th obtained more.

⁴⁸ These were ethnic Maguindanaons who had settled in MILF territory. The MILF split from the MNLF in 1984 but remains active in parts of Mindanao. For more on the MNLF and its separate negotiations with the government, see Crisis Group Asia Report N°152, *Philippines: Counter-insurgency vs Counter-terrorism in Mindanao*, 14 May 2008.

⁴⁹ Crisis Group interview, Cotabato, 12 March 2010.

own hands if there is no sign of progress towards a new Moro political entity.

VI. CONCLUSION

There is little chance that the May elections will bring much change to central Mindanao. The winning warlords may be a little more enlightened, but they will still be warlords. One way to break the hold of clans on political and economic power may be to exert tighter control over central government allocations to local government, with regular audits and criminal sanctions for malfeasance. But that assumes the auditors or law enforcers would themselves be free of political influence, and too often, that is not the case. Also, while the clan factor in Maguindanao may be particularly striking, the same factor operates to a greater or lesser extent through much of the Philippines. It would take a wholesale program of political reform from Manila to make a dent in this. “Noyoy” Aquino is presenting himself as the candidate of change, but he, too, represents a family dynasty.

The short-term focus should be threefold: keeping the Ampatuans in detention; continuing to press for the dissolution of private armies; and keeping the peace talks on track. The best lawyers money can buy must not be allowed to succeed in getting their clients released on a technicality before Judge Solis-Reyes can try them. The new president should work with the Congress to obtain the necessary prohibitions on privately-financed military and police auxiliaries. And negotiations with the MILF, and the good work of the International Contact Group, should be supported. If the talks are not going forward, they at least are not slipping back.

Jakarta/Brussels, 4 May 2010

APPENDIX A

MAP OF MINDANAO, SOUTHERN PHILIPPINES



APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh,

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