

Summary of “Peace Lens: On the Bangsamoro Wealth Sharing” roundtable discussion (August 28, 2013)

This video (see link at the end of the document) reflects Atty. Johaira Wahab's personal stance on the issue of wealth sharing and revenue generation in the Bangsamoro, being the former head of the legal team of the GPH panel and now a member of the Transition Commission.

Her talk focused on the Annex on Wealth Sharing and Revenue Generation as an embodiment of a shared vision between the Bangsamoro and the national government on how they seek to improve the 'unacceptable status quo'. The said annex provided the Bangsamoro the highest form of fiscal autonomy because of the expanded form of regional taxes, more share in the national taxes, fees and charges, and the automatic block grants annually from the national budget. It also focused on the nature of relationship between the national government and the Bangsamoro regional government on the aspect of resource sharing.

Atty. Wahab shared the need to consider the principles that inspired the crafting of the said annex, as follows: 1) empowering and full autonomy means ensuring both political and fiscal autonomy complementing with each other; 2) the need to expand the tax base in the Bangsamoro to generate more revenues to cover expenses of the future Bangsamoro government; and 3) the need for the Bangsamoro to catch up with other areas in the country (areas covered by the proposed Bangsamoro are among the most underdeveloped).

An open discussion followed the talk of Atty. Wahab which became a venue for exchange among participants of varied backgrounds (civil society groups, academe and business groups) to raise the following contentious issues related to the wealth sharing in the Bangsamoro. The discourse on the wealth sharing and revenue generation was intertwined with other issues in the negotiations.

Social costs due to the new arrangements. It has been identified in previous studies that one of the sources of conflicts are resource-based. With the political dynamics in resource management, how to address social conflicts that might arise? Are these new arrangements in wealth sharing as a way to address the unacceptable status quo would not exacerbate existing conflicts? How to handle conflicts that might arise due to the reorganization in the bureaucracy or the in the transition?

Interpretations on the 'transfer' of powers from ARMM to Bangsamoro. The use of the word '*transfer*' in the Article I.C in the Annex on Wealth Sharing has been deliberated.. ARMM will be abolished and replaced by the Bangsamoro which means that all powers, budget, taxes and revenues currently exercised by the ARMM Government as provided by the RA 9054 should be captured in the Basic Law and subsequently allowed or retained in the Bangsamoro. For instance, RA 9054 allows the ARMM to enter into economic agreements (as applied to other LGUs), thus it should not be an issue anymore in the Bangsamoro government.

How to ensure IP rights be respected and recognized in the basic law? The issue on ancestral domain of the IPs within the Bangsamoro will be a difficult aspect in the crafting of the

Bangsamoro Basic Law and in the future parliament given the unresolved issues in the implementation of IPRA in the ARMM (e.g., nondelineation of ancestral lands; who takes jurisdiction in implementing the IPRA in the region) and the different perspective of IPs on resource ownership.

For the status quo, NCIP and ARMM government still needs to iron out differences in the interpretation of 'exclusive powers' and 'who has the mandate' to implement IPRA in the ARMM. For the NCIP, it interprets that IPRA implementation in ARMM is beyond their jurisdiction because RA 9054 provides ARMM exclusive powers on ancestral domain and ancestral lands in the region. For the ARMM, it can adopt the framework of the IPRA and recognizing that the mandate of the NCIP and on ancestral domain comes from the IPRA law.

However, considering the little information on the success of IPRA implementation in areas of Mindanao, a question was also raised if IPRA law is the desired platform for implementing AD claims in the future Bangsamoro. Can people take the opportunity of having the new basic law to install learnings from the IPRA implementation in other parts of the country? Is a 'modified or better IPRA law' possible in the framework of the Bangsamoro?

According to Atty. Wahab, "it will be politically and legally possible and the system will be favorable to that. If we follow the conservative stand that 'power is exclusive', the national should not intervene unless it is an unconstitutional measure. The Bangsamoro parliament should be able to legislate and can try to craft a better IPRA. Let us assume that basic law will say that 'exclusive is exclusive' then we should try to put in place members of the parliament that will ensure a 'regional IPRA law' that is favorable and better than the 'national IPRA law'."

The Transition Committee welcomes proposals and inputs by the IP groups and advocates. These issues need to be referred to the Committee on Basic Rights and Social Justice which is focusing on the IPs and other minorities in the region.

Interpretation on the exclusive powers of the Bangsamoro. The RA 9054 says that the autonomous region can legislate over all matters, however there are exceptions to the rule of the exclusive powers (which means excluded from the legislative competence of the region).

However, the national government says that the devolved powers to the ARMM is subject to national laws and to the national constitution. This means that "exclusive powers are concurrent". Thus, the national government means that it is devolving certain powers to the ARMM, but not only ARMM can exercise legislative competence over these.

How does the MILF interprets the word "exclusive"? Does it mean that only the Bangsamoro can legislate and can execute policies on certain matters? If we say that ancestral domain is exclusive, does it mean that the national IPRA law will not apply in the Bangsamoro because the issue on ancestral domain is an exclusive power? These issues will need to be addressed.

People as the real wealth. It was also raised that when talking of wealth, human as real wealth of the nation should also be considered. How then people can participate so they have a say and ensure that they can benefit from the wealth sharing? Are our communities ready? Are they empowered enough or have political maturity to participate to ensure that implementation will trickle down?

Educating people on the new form of government. There is a need to educate people on the change of form of government in the Bangsamoro, specifically on the process and the system. It should be a sustained education and not only after the crafting of the basic law so the people would know how to respond. The Transition Committee is still looking for formulas to design the parliamentary form. It is on the stage of identifying issues in the current system and ways to address these issues.

The question was also raised on what is really necessary: to try to change structures or the mind set of changing attitudes and behaviors of the people? It is good that the discourse and appreciation has begun on the need to look at the status quo, reimagine politics and reinventing existing political structures.

The scope of the basic law and the next steps of the Transition Committee. The TC should start working on the signed documents which means translating documents into law even without the other annexes being signed yet (i.e., power sharing and normalization). The TC has divided the tasks through the five committees on political autonomy; fiscal autonomy; basic rights and social justice; security and administration of justice; and transitional arrangements and modalities. The committees on transitional arrangements and modalities and fiscal autonomy can start in its work following the signing of the two annexes on transitional arrangement and the wealth sharing and revenue generation.

The Bangsamoro Basic Law will be as short and simple as possible. It will be crafted to explain to the Bangsamoro what it can do and what it cannot, and its legal status. The basic law is not to write the laws for the Bangsamoro government but to create the region, to set up the structure of government, to define its powers, to provide how the transition will happen from ARMM to Bangsamoro, to provide funds, and to provide how the plebiscite will be conducted. So it will leave space for the Bangsamoro parliamentary to legislate the details.

Not to create a monolithic society. Considering the varied orientations of Moro groups in Mindanao on the issue of Bangsamoro self-determination, Atty. Wahab also expressed that the GPH-MILF peace process did not aim to create a monolithic society for the Bangsamoro. People should try to appreciate the nuances on these varied perceptions and orientations and not to simplify and create generalizations.

Thus, the *Pakighinabi: Peace Lens on Wealth Sharing* served as a jumpstart for the stakeholders of the peace process to continue the discourse on the nuances of the issues being laid in the negotiations and the implications of these to the underrepresented sectors and communities.

As expressed in the closing statements of Atty. Wahab to the discussion, "the agreement will be 'just words', the critical point is on how the parties (and their constituencies) will agree on a shared vision and be able to check this vision during the milestones of the negotiations and in implementation".

Video of Atty. Wahab's talk available for viewing at: www.youtube.com/watch?v=wAXbyudyjkw
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