



LISTENING PROCESS REPORT 2017





A report prepared by the Transitional Justice and Reconciliation Commission (TJRC)

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ACRONYMS

AFP Armed Forces of the Philippines

ARMM Autonomous Region in Muslim Mindanao

ASG Abu Sayyaf Group

BBL Bangsamoro Basic Law

BIFF Bangsamoro Islamic Freedom Fighters

BSDU Barangay Self-Defense Unit

CAB Comprehensive Agreement on the

Bangsamoro

CADT Certificate of Ancestral Domain Title

CAFGU Civilian Armed Forces Geographical Unit

CHDF Civilian Home Defense Force

CHR Commission on Human Rights

DAR Department of Agrarian Reform

DCF Data Capture Form

DENR Department of Environment and Natural

Resources

DWP Dealing with the Past

FAB Framework Agreement on the

Bangsamoro

FDFA Swiss Federal Department of Foreign

Affairs

GPH Government of the Philippines

HRVCB Human Rights Victims Claims Board

IB Infantry Battalion

ICHDF Integrated Civilian Home Defense Forces

IDPs Internally Displaced Persons

IFMA Integrated Forest Management Agreement

IHL International Humanitarian Law

IHRL International Human Rights Law

ILAGÂ Ilonggo Land Grabbers Association

IP Indigenous Peoples

IPRA Indigenous Peoples' Rights Act

LGU Local Government Unit

LP Listening Process

MILF Moro Islamic Liberation Front

MNLF Moro National Liberation Front

MOA-AD Memorandum of Agreement on Ancestral

Domain

MSU Mindanao State University

NCIP National Commission on Indigenous

Peoples

NGO Nongovernmental Organization

NLSA National Land Settlement Administration

NTJRCB National Transitional Justice and

Reconciliation Commission on

the Bangsamoro

OPAPP Office of the Presidential Adviser on the

Peace Process

PC Philippine Constabulary

PLA Pasture Land Agreement

PNP Philippine National Police

RA Republic Act

SAF Special Action Forces

SoCSKSar- South Cotabato, Sultan Kudarat,
Gen Sarangani, and General Santos City

SPARE Special Presidential Assistance for

Returning Evacuees

TJRC Transitional Justice and Reconciliation

Commission

TLA Timber License Agreement

TORs Terms of Reference

UNHRC United Nations Human Rights Council





As chairperson of the Transitional Justice and Reconciliation Commission (TJRC), it is my pleasure to present this report on the TJRC "listening process." The report is the product of an intensive series of community-based consultations undertaken by the TJRC in Mindanao and in the Sulu archipelago during the period from mid-March to mid-August 2015. It contains findings based on the narratives of these communities, reflecting their experience of decades of violent conflict, as well as their recommendations on how to address the painful legacy of the past. The listening process was part of a wider undertaking on the part of the TJRC that included academic studies, field research, and key policy interviews which focused on the topics of its mandate.

In addition to this current report, the TJRC is also publishing a report on marginalization through land dispossession, entitled "Dealing with the Past and Land Dispossession in the Bangsamoro," accompanied by a technical report on land dispossession, entitled "Land: Territory, Domain, and Identity," prepared by the World Bank and International Organization for Migration on behalf of the TJRC.

These publications are intended to supplement and substantiate the findings and recommendations of the TJRC report published in March 2016 and, at the same time, to serve as an impetus to the Government of the Philippines and the Moro Islamic Liberation Front to implement the recommendations of the TJRC report and to continue to engage in the process of normalization.

Ms. Mô Bleeker TJRC Chairperson



FOREWORD

There is renewed hope for a lasting peace based on the universal precepts of justice and respect for human rights in the Philippines and in Mindanao.

After decades of conflict, the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) signed the Comprehensive Agreement on the Bangsamoro (CAB) in March 2014. The perspective of sustainable peace seemed at last to be a distinct possibility to the people of this war-torn region. It is this optic, formulated as the "Bangsamoro opportunity" in the TJRC March 2016 report, that pervades the findings of the Listening Process Report. Finally, it seems as if the Bangsamoro and indigenous peoples (IP) have found a voice and there is hope that the people of the Philippines will listen.

Experiences in other parts of the world have shown that such "miracles" do happen; they occur in unexpected places and under the most improbable circumstances, undertaken by the most unlikely people who engage in the seemingly impossible task of tearing down walls of oppression and exclusion.

In this regard, one may think of the fall of the Berlin Wall in 1989, of the dissolution of apartheid and Nelson Mandela's assumption to the presidency in South Africa in 1994, of the election of Barack Obama as the first African-American president of the United States of America in 2008, among other historic events of a similar nature.

Nelson Mandela, who campaigned vigorously against apartheid and racial discrimination in his native South Africa, could not have been more eloquent when he said, "Everything seems impossible, until it happens!"

The history of the world has shown that wars are quite formidable barriers; they transform our friends, colleagues, and fellow human beings into adversaries and enemies. War dehumanizes people, distorts reality, and blinds people to the universal truth of diversity,

If we cannot find ways to promote cohesion and unity among us in Mindanao and in the Philippines, we will find ourselves living in geographical spaces inhabited by individuals without a sense of community and of belonging to one coherent whole.

love, and compassion among members of different communities. War happens in the absence of meaningful dialogue among people in conflict; when people are no longer interacting through empowering and empathetic conversations with one another or trying to jointly embrace the opportunity to acknowledge the diversity of peoples' ways of life.

Indeed, in any context of protracted war, the core meaning of being a community, of having ties that bind people together no matter how diverse they are—is no longer there or is explicitly erased.

If we cannot find ways to promote cohesion and unity among us in Mindanao and in the Philippines, we will find ourselves living in geographical spaces inhabited by individuals without a sense of community and of belonging to one coherent whole.

The way to start is to take one first small, but significant step: To read through this report. It is based on the narratives of the Bangsamoro and indigenous peoples, but also includes the voices of Christian settlers. The Bangsamoro and indigenous participants of the listening process speak about social exclusion, about being grossly neglected and abused as peoples of distinctive identities. As you go through these pages, try to comprehend these stories

from their point of view and to feel the pain behind them. Then you will understand their need to advocate the redress of legitimate grievances, of historical injustice, of human rights violations, and of marginalization through land dispossession. Indeed, you too might join them in demanding that their painful legacy be properly addressed. Moreover, you will also understand that the decades of violence have their mark on Christian communities as well, and that a process of reconciliation in Mindanao by necessity must engage people from all affected communities.

Taking this precious first step is already groundbreaking, to say the least. It can be followed by small incremental steps toward durable and inclusive peace in Mindanao. Whatever peacebuilding initiative we make is never futile, no matter how small it is.

Indeed, we are all given a chance to contribute to the Bangsamoro opportunity offered in this report. It is ready to become a vehicle for the "miracle" of making the seemingly impossible become possible: a durable, working, inclusive peace for Mindanao, for the Philippines, and for its diverse peoples. Because peace is everyone's concern, we exhort everyone to put in her or his share in making it happen—now, in the near future; not only for us, but for the generations to come.

Only then can we resonate with Nelson Mandela's exhortation that the impossible can be possible—when we make it happen. And there is no other time to do it than now.

Rufa Cagoco-Guiam¹

Lead Coordinator, TJRC listening process

October 2016

¹ Professor III, Sociology Department, and Director, Institute for Peace and Development in Mindanao, College of Social Sciences and Humanities, Mindanao State University (MSU) – General Santos City.



It was a rare privilege for the members of the listening process coordinating team to be "up close and personal" in listening to and in reading the narratives of pain and suffering of the people in the Bangsamoro and its adjacent areas. It was like being in front of a huge interactive theater where the performances are live—except that these were actual, lived, and painful realities. And for this special privilege, we are deeply grateful.

We express gratitude to the following persons without whose dedication, commitment, and collaboration this report would not have been possible:

- The more than 3,000 women and men who graciously shared their stories with our facilitation teams, even if this meant revisiting their painful past;
- Our administrative and support staff at the Consortium of Bangsamoro Civil Society (CBCS) and in the Institute for Peace and Development at the Mindanao State University in General Santos City;
- The members of the listening process facilitation teams— Mobashar Abbas, Ibrahim Abdulhalim, Nulkaisa Alidain, Fatima Pir Allian, Carino Antequisa, Dayang Bahidjian, Makakua Buat, Juvanni Caballero, Ammier Dodo, Ma. Carmen Gatmaytan, Nurhadi Guiam, Jo Genna Jover, Juhra Kiman, Myla Leguro, Hisham Nando, Akas Parending,



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- The honorable members of the TJRC: Ms. Mô Bleeker, Swiss Federal Department of Foreign Affairs (TJRC Chair); Atty. Cecilia Jimenez-Damary (GPH delegate) and Atty. Ishak V. Mastura (MILF delegate); their respective alternates: Atty. Mohammad Al-Amin Julkipli (GPH alternate delegate) and Atty. Abdul Rashid Kalim, (MILF alternate delegate); and Mr. Jonathan Sisson, Swiss Federal Department of Foreign Affairs (TJRC senior adviser);
- Ma. Lourdes Veneracion- Rallonza, TJRC senior gender adviser;

- Raissa Jajurie and Mary Louise Castillo, TJRC program consultants;
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- To all other individuals who are unnamed here, but who have contributed to the successful and safe conduct of 211 listening process sessions—our heartfelt shukran to all of you!

On behalf of the listening process coordination team:

Rufa Cagoco-Guiam and Guiamel M. Alim Lead Coordinators

GLOSSARY OF TERMS

Local/indigenous term/ concept	English translation/equivalent
<i>Baboy</i> (Cebuano-Visayan, Tagalog, Ilonggo)	Pig
<i>Di wagib a tudtulan</i> (Magindanawn)	Unjust history (historical injustice)
<i>Halaw</i> (Bahasa Melayu)	Deportee; driven away
Hijab (from the root word hijara - Arabic)	Head covering
Hinanakit (Tagalog)	Resentment
<i>ljma</i> (Meranaw)	Customary laws
Juramentados (Spanish)	Men who run amuck
<i>Kalaliman a tarsilan</i> (Magindanawn)	Unjust history (historical injustice)
Kaligutgot (Cebuano)	Resentment; anger; hatred
<i>Kamahardikaan</i> (Sama/ Tausug)	Foundation day celebration
Kasambahay (Tagalog)	House help or domestic helper
Kapanglimahan/panglima (Sama)	Traditional form of governance by the <i>panglima</i> (community leaders)
Kapir (local derivative of kafir - Arabic)	Non-believers (of Islam)

GLOSSARY OF TERMS

Kasa'an ta masa (Sama)	Something hurtful; referring to acts of injustice that have caused pain
Kedufang/kedusa (Tedur- ay)	Something painful resulting from unjust acts
Ketete fedaw (Teduray)	Bad feeling (literal translation) or deeply hurt
Lat a ginawa (Magin- danawn, from the verb migkalat – "to break," "to destroy")	Broken self (usually the result of something hurtful or painful done to another)
Magnanakaw (Tagalog)	Thief
Maktan kabilahi-an, maktan ni angan-angan (Sama)	Legitimate aspirations (positive way of expressing legitimate grievances; negated by unjust acts)
<i>Muklo</i> (llonggo, Visayan)	Pejorative word used to designate Muslims in Mindanao
Niqab (Arabic)	A full head cover for women with only a small opening for the eyes
Pagkontla (Magindanawn)	Vengeance fighting (see definition of <i>rido</i>)
Palakaya (Sama, Tausug)	Fishing boat
Parang sabil (Tausug)	Martyrdom

GLOSSARY OF TERMS

Peddi atey/sukkal pangateyan (Yakan)	Pain or hurt <i>(peddi)</i> ; heart <i>(atey)</i> ; something painful to one's heart <i>(sukkal pangateyan)</i>
<i>Pondohan</i> (Sama, Tausug)	Temporary settlement or village, community
<i>Rido</i> (Meranaw, used as lingua franca by all Bangsamoro groups)	Family feuds or fighting to exact revenge on the families of those who have violated the honor or integrity of another family; a <i>rido</i> can last for years or even decades
Sarewang a tau (Magindanawn)	An idiom invariably used in reference to strangers, foreigners, or an outsider
Sakit pangatayan or karukkaan sin pangatayan (Tausug)	Grieving heart or the heart grieving intensely
<i>Sesekaten a kabnar</i> (Meranaw)	Paying back <i>(sesekaten)</i> ; rights <i>(kabnar)</i>
Sukkal pangateyan (Yakan)	Deep pain
Surah (Arabic)	Chapter (in the Holy Qur'an)
Taritib (Meranaw)	Laws or legislative body
Ummah (Arabic, widely used by Muslims of all ethnolinguistic groups)	Brotherhood, community of believers (in Islam)



EXECUTIVE SUMMARY

The Listening Process Report of the Transitional Justice and Reconciliation Commission (TJRC) supplements the main TJRC report submitted to the Government of the Philippines and the Moro Islamic Liberation Front in December 2015 and subsequently published in March 2016.² This supplementary report presents the rationale, process, and outcome of the listening process, one of the four components of the TJRC consultation process.

² The TJRC report was published in March 2016 in two editions. One version in a larger format was published in a print edition and is available online. A second version in a smaller format with a different pagination is only available in a printed version. In the following, references will be made to both editions of the report. The Report of the Transitional Justice and Reconciliation Commission shall be cited in the footnotes as "TJRC March 2016 Report" with two page numbers: The page number of the larger print and online version without parentheses and the page number of the smaller print version in parentheses.

The online version of the TJRC March 2016 Report is available at : http://www.tjrc.ph/skin/vii_tjrc/pdfs/report.pdf (accessed on 30 September 2016).

1. THE TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION (TJRC)

The Normalization Annex of the Framework Agreement on the Bangsamoro (FAB), signed on 25 January 2014, provided for the creation of the TJRC. A central element of the normalization process and one of the innovations of the Bangsamoro peace process was the establishment of the TJRC as an independent body with a specific mandate to study and formulate recommendations on issues related to transitional justice and reconciliation, in particular concerning the legitimate grievances of the Bangsamoro, historical injustice, human rights violations, and marginalization through land dispossession. The peace panels tasked the TJRC to recommend appropriate mechanisms to address these issues with a view to promoting healing and reconciliation among the conflict-affected communities in Mindanao and the Sulu archipelago.³

The Government of the Philippines (GPH) and Moro Islamic Liberation Front (MILF) peace panels constituted the membership of the TJRC as follows:

Chairperson: Ms. Mô Bleeker, Special Envoy, Swiss Federal Department of Foreign Affairs;

GPH Delegate: Atty. Cecilia Jimenez-Damary;

GPH Alternate Delegate: Atty. Mohammad Al-Amin Julkipli;

MILF Delegate: Atty. Ishak Mastura;

MILF Alternate Delegate: Atty. Abdul Rashid Kalim; Senior Adviser: Mr. Jonathan Sisson, Swiss Federal

Department of Foreign Affairs.

The TJRC is supported by office staff based in Manila and in Cotabato City and by a senior gender adviser, Dr. Ma. Lourdes Veneracion-Rallonza.

³ In its Terms of Reference (TORs), dated 22 March 2014, the mandate of the TJRC is formulated as follows: "The Transitional Justice and Reconciliation Commission (TJRC) shall undertake a study and recommend to the Panels the appropriate mechanisms to address legitimate grievances of the Bangsamoro people, correct historical injustices, and address human rights violations and marginalization through land dispossession, towards healing and reconciliation."

The TJRC consultation process

Several key principles guided the work of the TJRC:

- Ensuring local and national ownership of transitional justice processes;
- Developing a Filipino and Bangsamoro approach to transitional justice and reconciliation;
- Being sensitive to gender and culture;
- Contributing to the process of conflict transformation and trust building;
- Keeping pace with the ongoing peace process.

The TJRC designed its own consultation process based on a problem-solving approach to transitional justice and reconciliation. This approach combined a broadly-based process of listening to the voices of conflict-affected communities, expert review of archival documents, existing relevant literature and field studies, an assessment of the existing framework for transitional justice, and a series of key policy interviews related to these issues. In carrying out the consultations, more than one hundred persons—women and men-from the Bangsamoro region and on the national level participated and actively engaged with the TJRC as facilitators, experts, or key informants. The people who collaborated with the TJRC include peacebuilding, conflict transformation, and human rights practitioners, community and religious leaders, academics and experts in Mindanao and Bangsamoro studies, public servants, and representatives of the security and private sectors.

The results of the consultations were instrumental in shaping the TJRC understanding of the social, cultural, political, economic, and historical factors that have underpinned and sustained the conflict in Mindanao for decades. The consultations also provided the TJRC with key insights into familial, communal, and cultural relationships that exist between communities in the Bangsamoro and contingent areas. They also shed light on the institutional architecture and means of governance on the local, regional, and national levels.

Crucially, the TJRC developed and adopted its own conceptual and analytical framework on transitional justice and reconciliation, based on the Swiss approach known as "Dealing with the Past"



(DWP). The Swiss model foresees the implementation of comprehensive measures in the areas of truth seeking, reparations, justice, and institutional reform, in order to ensure that the State fulfills its obligations to provide satisfaction to victims and to society as a whole. This framework informed the TJRC's understanding of the results of the overall consultation process and the formulation of its recommendations.

This body of recommendations offers a realistic, feasible, and sustainable means of dealing with the painful legacy of a violent past and, at the same time, it offers a coherent vision for the future based on the rule of law and on mutual respect and tolerance between the conflict-affected communities in Mindanao and Philippine society at large.

In carrying out the listening component of the consultation process under the DWP framework, the TJRC engaged with more than 3,300 persons across 211 Moro, indigenous, and settler communities in Mindanao and the Sulu archipelago.

It is important to note that some peace and justice initiatives associated with the universe of transitional justice have been previously attempted in the Philippines. While important and of significance, these activities have not had a significant impact on the conflict in the Bangsamoro. In particular, they failed to address the root causes of violence, to satisfy demands for justice, and to prevent the recurrence of human rights violations decisively.

The TJRC analysis⁴

The four topics of the TJRC mandate prescribed by the panels are closely interrelated and meaningfully intertwined. The Bangsamoro and indigenous people's narrative of historical injustice reflects their experiences of legitimate grievances, sociocultural, political, and economic marginalization through land dispossession, and widespread human rights violations. Moreover, the TJRC has concluded that these four issues are the consequence of three intricately interconnected elements: Violence, impunity, and neglect committed against the Bangsamoro and indigenous peoples (IP). These experiences, in turn, are rooted in the imposition of a monolithic Filipino identity and Philippine State by force on multiple ethnic constituencies that regarded themselves as already established precolonial nations and nation-states in Mindanao and the Sulu archipelago.

Contextualizing transitional justice in the Bangsamoro

Transitional justice as a methodology to address past violence and injustice needs to be adapted, appropriated, and even transformed according to the cultural, historical and socio-economic context, in which it is to be applied. In this regard, the TJRC developed its own conceptual approach to transitional justice with a specific vocabulary, cultural references, and attention to and practice of gender sensitivity. Moreover, the TJRC formulated a conceptual framework that is compatible with international standards and sensitive to the reality, aspirations, and expectations of the Bangsamoro and indigenous peoples (IP).

⁴ With regard to the findings of the TJRC, see the chapter entitled "Violence, Impunity, and Neglect: The Imposition of a Monolithic Philippine Identity and Philippine State," in: TJRC March 2016 Report, pp. 55-67 (pp. 70-85).

The TJRC conceptual and analytical framework for transitional justice (or what it prefers to call "dealing with the past") is inspired by the so-called "principles against impunity," developed by the United Nations Human Rights Council (UNHRC). In this regard, the TJRC highlights the fact that the principles against impunity are based on the rights of victims to seek redress for past abuse and on the obligations of the State to ensure accountability for wrongs committed. Moreover, initiatives related to truth seeking, justice, reparations, and institutional reform (as a way to ensure the non-recurrence of such violations) offer a mutually reinforcing framework that is needed in the struggle against impunity and to strengthen the rule of law.

The TJRC DWP approach offers a constructive and pragmatic framework to address past wrongdoings in a manner that reinforces the peace process and facilitates conflict transformation. Moreover, the framework calls for the involvement of a wide range of actors from all sectors of society in a collective effort to address the legacy of violence and injustice and, in this way, to commence the process of healing. In this respect, the TJRC insists that a formal process of dealing with the past in some form is a prerequisite for reconciliation on a societal level.⁵

The TJRC prefers the expression "dealing with the past" to "transitional justice" on the premise that dealing with a legacy of violent conflict is not a matter that concerns only legal professionals. Rather, the process of addressing past abuse should reflect the social geographical landscape of communities affected by the armed conflict and engage a wide set of stakeholders to partake in the process of reconciliation. In this regard, the process of dealing with the past requires both a top-down and a bottom-up process. Nonetheless, the terms "dealing with the past" and "transitional justice" are used interchangeably in this report.

The TJRC Recommendations

The TJRC is aware that it shall take time to address the issues outlined in its mandate in a coherent and comprehensive manner and to bring durable peace to the Bangsamoro and in the Philippines.

⁵ See Figure 2 for a representation of the TJRC Dealing with the Past Framework.



Therefore, the TJRC proposes an incremental and flexible approach that combines mutually reinforcing efforts in the fields of truth, justice, reparations, and guarantees of non-recurrence, while promoting reconciliation initiatives on the local, regional and national levels. All these recommendations stem from the listening process sessions, the study group reports, the key policy interviews, and other reports mandated by the TJRC.

The TJRC produced two sets of recommendations that were outlined in its March 2016 report.

One set of recommendations focused on the creation of a national mechanism, namely, the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB).⁶

The overall mandate of the NTJRCB shall be to implement the Dealing with the Past Framework, to promote healing and

⁶ Concerning the mandate and operational framework of the NTJRCB, see: TJRC March 2016 Report, pp. 74- 79 (92-99).

reconciliation, and to ensure that its four separate Sub-Commissions in cooperation with relevant existing institutions and actors undertake the following tasks:

- To realize public and confidential hearings with the participation of victims of the conflict, to investigate serious violations of international human rights and international humanitarian law, and to implement remedies;
- To contribute to the resolution of outstanding land disputes in conflict-affected areas in the Bangsamoro, to address the legacy of land dispossession, and to implement remedies;
- To contribute to the dismantling of impunity, the promotion of accountability, the strengthening of the rule of law in relation to past and present wrongdoings, and to implement remedies;
- To promote healing and reconciliation among the different communities affected by the conflict.

The other set of recommendations outlined 90 specific recommendations related to dealing with the past, many of which derived from proposals made during the TJRC listening process.7 These recommendations are directed to government and semi-government agencies, including local government units, as well as to civil society and the private sector. Existing state institutions and non-state organizations can implement the TJRC recommendations by mainstreaming them into their current programs and operations and by cooperating with the proposed NTJRCB. The recommendations are categorized according to the four pillars of the Dealing with the Past Framework, namely, the right to know, the right to justice, the right to reparation, and guarantees of non-recurrence. The spirit of these additional 90 recommendations reflects the profound awareness that processes of dealing with the past, healing, and reconciliation are essential endeavors that entail the continuous engagement of the "whole of government" and all sectors of society.

⁷ Concerning the formulation of the 90 specific recommendations, see: TJRC March 2016 Report, pp. 79-92 (99-115).

2. THE TJRC LISTENING PROCESS: RATIONALE AND METHODOLOGY

The listening process was developed by the TJRC as an inclusive and extensive method of consultation at the community level as a means of formulating recommendations to address the four core issues of its mandate and to promote healing and reconciliation. Following rigorous studies and discussions within the Commission and in conversations with Philippine and international experts, the TJRC designed a consultation process that incorporates good practices and critical lessons learned from transitional justice processes around the world.

Designing the listening process

From the beginning, it was clear to the TJRC that an iterative two-way process of dialogue with communities affected by the conflict would be necessary to provide the contextual evidence upon which its recommendations could be based. In order to accomplish this, the TJRC needed to carry out extensive, participative, and genuine consultations throughout the Bangsamoro region and contiguous areas. The TJRC took the decision to engage in dialogue with the intention not only of involving a wide range of constituencies and thereby eliciting a broad spectrum of ideas, but also of generating ownership and mobilizing the social capital necessary to implement its recommendations. On the ground, the consultations were conducted in a way that captured the multiplicity of experiences, differences of opinion, and the diversity of visions for the future of the communities consulted. Moreover, a focus was placed not only on the needs and expectations of the participants, but also on creative expressions of resilience formulated by various stakeholders.

In adapting the consultation process design to the Mindanao context, the TJRC took note of two crucial factors. First of all, transitional justice as a means of enabling societies in transition to address the short- and long-term effects of protracted armed conflict and deep-seated animosity was broadly unfamiliar, even foreign, to Philippine constituencies. At the same time, the wording of the TJRC mandate—focusing on legitimate grievances, historical injustice, human rights violations, and marginalization through



land dispossession—resonated rather meaningfully to their ears. Accordingly, the TJRC decided to concentrate on the issues as they were framed in its mandate. It was only after the consultations had taken place that the TJRC analyzed the results according to its conceptual framework for dealing with the past and formulated its recommendations. Secondly, although the TJRC was set up as part of the architecture of the peace process, there existed a need to establish the legitimacy and credibility of the TJRC among the stakeholders at the community level. In order to bridge this gap and reach out to the concerned constituencies, the TJRC decided to engage in a broadly-based consultation process that would involve the widest array of stakeholders.

Preparations began with a search for and the selection of listening process coordinators. The criteria were demanding: The coordinators needed to be highly respected and recognized professionals with a record of integrity. They should be suitably familiar with the rigors of the social sciences and trusted by all

sides of the socio-political constituency of the Bangsamoro and at the national level.

Senior facilitators, adept in the local, Filipino, and English languages, and who shared the confidence of participating communities and stakeholders, cooperated with the listening process coordinators. The selection procedures ensured that the listening process facilitators were drawn from Muslim, Christian, and indigenous communities and represented a broad mix of the ethnopolitical and socio-cultural identities of Bangsamoro stakeholders. They shared an extensive familiarity and experience in working with the communities to be consulted. The facilitators underwent rigorous training in a series of intensive workshops, focusing on the mandate of the TJRC and on the conceptual approach, the methods, and the tools of the listening process. During this period, the TJRC and the listening process coordinators and facilitators jointly developed the questionnaires to be used in eliciting the experiences of participating stakeholders.

To systematize the collection of the stakeholders' narratives, the TJRC developed a data capture form (DCF), a document encoding the statements of the participants during the consultation process. Digital recording technologies, such as tablet computers, cameras, and voice recorders, and traditional paper-based recording materials were utilized to build and support the documentation process.

Implementing the listening process

The listening process sessions were conducted in 211 localities within the core territories of the Bangsamoro and contiguous or related areas by twelve teams of facilitators during a period of five months from mid-March to mid-August 2015. Each listening process team was tasked to conduct listening process sessions in at least 18 communities or localities in their assigned areas in mainland and central Mindanao, including Zamboanga peninsula, and in the island provinces of Sulu, Tawi-Tawi, and Basilan within three to five months. Each session gathered around 15 participants who shared relevant experiences and knowledge of armed conflict in specific areas in Mindanao and in the island provinces. By the end of the

consultations in early August 2015, some 3,307 participants had taken part in the community listening process sessions, of whom 1,958 were male (60%) and 1,349 were female (40%). A majority of the listening process sessions were conducted in Moro and indigenous communities. A smaller number of sessions were held in communities, in which the majority of participants were Christian.⁸

The listening process was neither a data-gathering procedure pursued for the purpose of extractive academic research nor a typical consultation process or an information dissemination activity. The listening process used a highly qualitative technique of eliciting data related to the four major TJRC-mandated issues. The questions enabled participants to describe and narrate their collective experience as Bangsamoro and indigenous peoples living in Mindanao and in the island provinces. No set of historical timeframe was provided for the questionnaire. The responses of the participants referred to events that took place over a longer period of time, extending from the Spanish and American colonial eras until the present day.

A critical preparatory component of the listening process was a comprehensive training of the facilitators on the procedures and value of "active listening." A written questionnaire that required responses from the perspective of the wider community was also prepared to guide the discussions. Active listening compels facilitators to listen with empathy to the stories shared by the participants and not to interrupt or correct what they said. The facilitators were trained to adopt a nonjudgmental stance while listening to the narratives of the participants. The TJRC listening process facilitators encouraged the participants to

⁸ For this reason, a majority of the references in the present report are made to narratives formulated by Bangsamoro and indigenous peoples. Accordingly, it is the viewpoint of these two groups that is given the most prominence in this report. This is not meant to belittle the contribution of the Christian settlers. On the contrary, the TJRC is cognizant of the fact that, as representatives of the majority community in Min-danao, their voice must be heard and that they have a crucial role to play in any process of dealing with the past and reconciliation. The mandate of the TJRC, however, placed an emphasis on the experience of the Bangsamoro people and this focus is reflected in narrative findings of the listening process.

⁹ For an example of the TJRC Listening Process questionnaire, see Annex 2.

clarify points and to substantiate their stories and experiences. The listening process sessions took place under a pledge of strict confidentiality. The participants were informed that the opinions expressed during the sessions would be used to inform the findings and recommendations of the TJRC report, but that the participants would not be cited by name.

The listening process sessions brought narratives of collective trauma to the surface that would otherwise have remained hidden. During the listening process sessions, some of the participants revealed for the first time the lingering pain and deeply-felt suffering that they had suppressed for years. For the facilitators of the listening process—some of whom were also victims of injustices associated with the four TJRC mandate issues—eliciting such raw accounts of pain and suffering, which had been kept in silence for years and even decades, was a very moving experience.

Sensitivity to gender dynamics

One of the more important goals of the listening process was to elicit information on how women and men experienced legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. It was vital for the TJRC to recognize and place special importance on the gender dimension of the four issues on the premise that the conflict has affected women and men differently and, as such, has had a significant impact on gender identities and relationships. The gender implications of its mandate guided the TJRC in collecting stories and insights, reflecting about the narratives that were shared, crafting appropriate policy recommendations, and designing people-centered mechanisms for dealing with the past and for healing and reconciliation. Out of the twenty-four field listening process facilitators, eleven were women.

Operational and contextual challenges

The outbreak of vertical armed conflict between rebel and government forces and horizontal conflict among Bangsamoro kindred groups posed significant challenges in the conduct of the listening process. The tragic incident in Mamasapano, Maguindanao in January 2015 during the final phase of preparation



of the listening process sessions raised the question of whether or not the process should proceed as planned amid intensive media coverage and public condemnation of the massacre, which put the rationale of the peace agreement itself into question. After careful analysis of the situation on the ground in the region, the TJRC decided to proceed with the listening process on the basis of assurances provided by the coordinators and facilitators. Both the TJRC and the members of the listening process teams regarded the consultations as a positive factor that would allow community members to present their views and express their feelings, but would also restore hope in the peace process and thus contribute to healing new and old wounds that the violence in Mamasapano had (re)opened.

Apart from the Mamasapano incident, vengeful and violent episodes of feuding between and among opposing kindred groups, known locally as *rido*, forced the TJRC to cancel some sessions of the listening process and prompted it to observe extreme caution in the selection of listening process sites. Moreover, the deployment of dissident armed groups opposed to the peace process complicated the security situation in the conduct of the listening process in some areas.



Public beliefs that linked the listening process to the impassioned national debate on the Bangsamoro Basic Law (BBL) also posed a critical challenge to the conduct of the sessions. The facilitators had to explain carefully that the listening process was an independent initiative of the TJRC and was not part of the broad-based BBL consultations that were being conducted in several areas of Mindanao at that time. During the preparatory phase, the facilitators had been briefed that the TJRC report would elaborate recommendations that could be implemented independently of the BBL.

Finally, in many of the community-based listening process sessions, the number of participants exceeded the maximum number of 15 persons. In some cases, however, the listening process attracted the participation of fewer people due to security issues or outright mistrust of the activity.

Gathering and evaluating data

The listening process used a highly qualitative technique to elicit data that relate to the four topics of the TJRC mandate by means of a questionnaire designed to explore the experiences of the Bangsamoro and indigenous peoples living in conflict-affected communities for more than forty years. Guide questions encouraged the participants to describe specific experiences of legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession, while also paying attention to the characteristics of those experiences (nature, gravity, and emotional force). The participants were also asked whether or not efforts to address past injustices had been undertaken and whether or not some measure of healing and reconciliation had taken place—with or without their personal participation. In this regard, the participants were requested to describe the possible consequences of the failure to address the legacy of the past. In conclusion, the participants were invited to recommend concrete activities and policies to prevent the recurrence of painful experiences in the past.

The process of designing the listening process questionnaire was a complex and highly sensitive task. The TJRC needed to ensure that it addressed the issues of its mandate and, at the same time, captured the experiences of the participants at a level that they could relate to. Moreover, the TJRC had to resolve language issues, particularly in multilinguistic communities where people do not necessarily share a common language. Furthermore, the TJRC had to take into account the sensitivities of the participants and the diversity of their cultural backgrounds in crafting the listening process questionnaire.

It was clear to the TJRC that, for the purpose of this report, the testimonies given and the information gathered could not be evaluated in accordance with judicial standards.¹⁰ Instead, it was decided that

¹⁰ In the course of its consultation process, the TJRC received concrete information about events, which can be categorized as serious violations of international human rights law (IHRL) and international humanitarian law (IHL). Some of this information is based on survivor testimony; other information is stored in archives and refers to atrocities that were committed several decades ago. In some cases, the testimonies described violent incidents that remain unknown to the public to this day. The majority of witness statements and records are backed up by previous reports, but some of them would require further investigation for confirmation. The TJRC addressed this issue and formulated recommendations in this regard in its March 2016 report.

the standard should be the consistency of the testimonies and information with published academic reports and scientific field research from reliable sources. Another factor taken into account as a criterion of veracity was when statements about events or circumstances were repeated by participants in different listening process sessions. The fact that communities in different parts of Mindanao shared similar experiences of abuse and exclusion independently of one another was one of the remarkable findings of the listening process.

Realizing the Listening Process Report

The listening process questionnaire resulted in a large number of responses that testified to a wide range of experiences associated with legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. Moreover, it encouraged reflections on healing and reconciliation in the Bangsamoro context. The questions were designed to capture the collective experience and understanding of the different communities participating in the listening process, rather than individual biographies and testimonies. The questionnaire allowed the participants to make their own recommendations as to how the issues of the TJRC mandate should be addressed.

In order to ensure maximum accuracy, the narratives received were verified as far as possible based on existing sources or cross-checked with the results of the other parts of the TJRC consultation process, namely the TJRC study group reports, key informant interviews, and the Dealing with the Past Assessment.¹¹

The responses were transferred onto a matrix designated as a Data Capture Form (DCF). A small team of desk researchers were then tasked to screen all the DCFs with a view to identifying similar statements, recurring issues, and common themes. Similar testimonies and recurring issues were grouped by chapters and sub-chapters according to the elements of the TJRC mandate. The findings of this report are based on the material collated in the Data Capture Forms. The source of the participant

¹¹ The TJRC Dealing with Past Assessment is an unpublished report prepared by the TJRC senior adviser. It is based on desk research, field visits, and key informant interviews, conducted during the period March to August 2015.



statements quoted in the text is cited in the footnotes according to the location (barangay, municipality, province) and date of the listening process session in which the statement was made. In many cases, the DCFs only summarized the statements of the participants and therefore only a summary of the opinions expressed could be included. In other cases, reference is made in the report to participant narratives without citing the source in the DCFs.

As mentioned above, the TJRC took the findings of the listening process into account when it formulated the two sets of recommendations in its March 2016 report. On the one hand, the TJRC recommended the creation of a National Transitional Justice and Reconciliation Commission on the Bangsamoro. In addition, the TJRC also enumerated some 90 separate recommendations based to a large extent on concrete proposals made by listening process participants. The concluding remarks presented under the rubric of the "Bangsamoro opportunity" are an attempt to shed further light on the TJRC recommendations based on the insights gained during the listening process.

3. THE TJRC LISTENING PROCESS: NARRATIVES AND INSIGHTS

Legitimate grievances

The grievances expressed by listening process participants focused primarily on the collective experience of neglect and exclusion by the national government, notably through its failure to support the socio-economic development of the region. The experience of neglect and exclusion has had a devastating effect on the lives of the Bangsamoro and indigenous peoples, both individually and in collective terms. Listening process participants noted, in particular, disadvantages with respect to health care, education, and social protection. Furthermore, the lack of economic opportunities contributed to the breakdown of local economies. Such a corrosive situation triggered massive migration from Moro and indigenous ancestral lands. This, in turn, contributed to the erosion of the intellectual and social resources necessary for social cohesion and for the rehabilitation of conflict-affected communities. Moreover, neglect and exclusion contributed to the weakening of local governance, fostering the rise of powerful criminal forces, while undermining the rule of law, with the inevitable result being the outbreak of criminal violence, proliferation of loose firearms, and spread of illicit drugs.

Not surprisingly, many of the specific grievances that surfaced during the listening process were conflict-related. Repeated episodes of conflict-induced internal displacement impoverished communities and prevented the transfer of traditional skills and culture that are fundamental to their identity and dignity. The lack of government intervention or reaction, for example, when soldiers desecrated Muslim places of worship in the course of military operations was interpreted as an example of Filipino religious intolerance. The lack of government initiative to resolve internecine, kindred-based conflicts, known as rido, was also noted in this context. In addition, the listening process ferreted out deep-seated grievances over government inaction in diplomatic matters, such as the failure to represent adequately the interests of Philippine citizens when arrested in Sabah or when barred entry into Sama ancestral waters and islands straddling the Philippine, Malaysian, and Indonesian sea borders.

Examples of grievances with gender dimension were voiced with respect to Moro women who related cases of social exclusion, ranging from being discriminated against for wearing distinctive Islamic dress to denial of employment and loan opportunities. Other cases of social exclusion concerned discrimination against some Moro groups by more dominant Moro ethnicities, while discrimination toward indigenous peoples was said to be practiced by both Christians and Moros.

Another grievance was related to the use of derogatory terms, such as "*muklo*," "terrorists," and "troublemakers" for Muslims, and "ignorant," "inferior," and "backward" for indigenous peoples in popular media and public discourses.

The listening process sessions revealed that the experience of grievance has cut deeply into the consciousness of the Bangsamoro and indigenous peoples, surfacing in the local idioms and dialects as expressions of pain and hurt as well as deep-seated animosity and resentment. Participants from various ethnolinguistic groups articulated how the recurrent violence and injustices have engendered an overall sense of identity loss and "brokenness" among Bangsamoro and indigenous community in conflicted areas.

Historical injustice

The listening process revealed a strong sense of historical injustice spanning the periods of Spanish and American colonial rule to the post-colonial Philippine government administration. Events were remembered with clarity and even utilized as a rationale to explain the roots of the "brokenness" of Bangsamoro and indigenous society. Claims that the newly-independent Philippine government "illegally annexed the Bangsamoro homeland" and subsequently subverted the identity, integrity, history, and aspirations of the Bangsamoro people were repeatedly articulated during the consultations.

Examples of historical injustice were most often framed in political terms. Both the colonial governments and post-colonial Philippine government pursued policies that bolstered local chiefs who professed allegiance to the detriment of legitimate Moro leaders and thereby pushed long-standing Bangsamoro and indigenous

political structures into a precipitous decline, resulting in their eventual curtailment. Participants cited the example of the Sultanate of Sulu as a case in point. The collapse and subsequent supplanting of that structure by the Philippine government bureaucracy has been harmful to communities that have for centuries regarded the waters, islands, coasts, and inlands of the Sulu Archipelago and Sabah as their home and territory. During the listening process, the Sama participants claimed that without protection from the historic Sulu sultanate, their status as descendants of the older dwellers of the broad swath of land and sea intersecting the Philippine, Malaysian, and Indonesian borders was gravely endangered.

Another instance of historical injustice cited by participants concerns the non-recognition of the countless Bangsamoro and indigenous martyrs and patriots in the national historical narrative. With some few exceptions, there is little mention made of their contribution to the anti-colonial struggle. In the rare instance when the exploits of Moro martyrs and heroes are written about in school textbooks and popular media, they are portrayed often enough as villains or bandits. In this regard, participants referred to the example of the Moro fighters who choose *parang sabil* (martyrdom) in the struggle against American colonial rule, but were labelled as "juramentados," a pejorative term for "men who run amuck," suggesting that they were demented. This negative categorization effectively disqualified their contribution to anti-colonial resistance in the narrative of Philippine history.

Participants also mentioned the measures taken by the local and national governments to replace the traditional names of historic domains, sacred sites, and longstanding settlements of the Bangsamoro and indigenous peoples, with the names of colonial and Filipino personalities who never had any ties with the local population.

Human rights violations

The events surrounding the imposition of Martial Law during the Marcos years formed the bulk of the experience of human rights violations narrated in the listening process. Participants

identified the members of the Philippine military and constabulary, of state-organized community-based paramilitary forces (known as the Integrated Civilian Home Defense Forces [ICHDF]), and of non-state armed groups, such as the *Ilagâ*, as being responsible for most of the human rights violations committed during that time. The sordid details of the atrocities allegedly committed by soldiers and paramilitary groups included a range of violations: kidnapping, torture and mutilation, summary executions and massacres, burning of homes and properties, pillaging, and even episodes of cannibalism. Participants also described lengthy episodes of internal displacement in which they were exposed to additional dangers in evacuee camps. In fact, hundreds of thousands of Moros and indigenous have been forced to flee from their homes and ancestral lands due to the violence over the years.¹²

In a tactical attempt to undermine the support of suspected rebels, the practice of "hamletting," which involved the wholesale restriction of the flow of goods and people in the conflict zones, was imposed by the military and paramilitary forces despite the prohibition of such tactics in international human rights and humanitarian law. Yet, the allegations of atrocities were not confined to government soldiers and paramilitaries. Some participants pointed to alleged violations committed by Moro armed groups, known as the "Blackshirts" in Maguindanao and as the "Barracuda" in the Lanao provinces, during the 1970s.

Practices developed during Martial Law continued to exist long after it was officially lifted in January 1981. Participants cited evidence of this in the brutal conduct of subsequent military and paramilitary units deployed by the Philippine government in the succeeding decades. Notably, they cited the succession of military operations launched in pursuit of secessionist forces and alleged kidnap-for-ransom gang members in the 1990s as well as the offensive against alleged terrorists in the year 2000 "all-out war" as being responsible for gross and systematic human rights violations.

Mention was also made of massive military operations mounted

¹² See the chapter on internal displacement in the TJRC March 2016 Report, pp. 40-42 (52-54).

against so-called "suspected enclaves of the international network of terrorists" in the Bangsamoro and indigenous peoples' core areas in conjunction with the United States' global war on terror. The collapse of the GPH and MILF peace process in 2008 and another campaign for "all-out justice against lawless elements" led to massive military deployments and a string of reported human rights violations that mirrored some of the atrocities committed during Martial Law.

The listening process also shed light on sexual and gender-based violence during the conflict. A number of participants related how government soldiers selectively killed men and sexually assaulted women before killing them in the course of the government antisecessionist campaign in the 1970s. They cited accounts of how soldiers raped and, in some cases, forced women to marry them. Others claimed that more than 200 women were forced to serve soldiers as "sex slaves" in one of the provinces of Central Mindanao during Martial Law.

Apart from alleged conflict-related human rights violations committed by Philippine military authorities, participants also reported that some Sama Dilaut men and women deported from Sabah were trafficked, many of whom ended up in prostitution or were forced to engage in unlawful trade, including illicit drug dealing.

Marginalization through land dispossession

The process of land dispossession, as related by participants during the listening process sessions, took place on two levels. On the one hand, it was structural in nature based on administrative decisions and government policy; and, on the other hand, it took place on a case-to-case basis, involving acts of deception. On the structural side, formal and legal instruments of land ownership and redistribution spurred massive land dispossession in Bangsamoro and indigenous areas. These instruments were derived from colonial land distribution principles enshrined in the so-called Regalian doctrine, which regards all lands in the public domain as a possession of the State and considers the State as the source of any asserted right to ownership of land. Post-colonial Philippine land laws and jurisprudence sustained the Regalian doctrine, which denied



ownership claims based solely on the historical or actual occupancy of lands in Mindanao by Moro and indigenous communities.

The process of land dispossession began when the authorities, using land laws based on the Regalian doctrine, opened up the traditional domains of the Bangsamoro and indigenous peoples to corporate plantation, logging, and mining ventures, and promoted agricultural colonization by landless farmers from Central and Northern Philippines, inaugurating a large-scale migration to Mindanao that started in 1912. Land occupation by migrant farmers led to a rapid population growth and eventually to a dramatic demographic shift, transforming the Moro and indigenous peoples into minority communities in Mindanao by the 1960s. The resulting societal reconfiguration served as a trigger for communal violence that began to spread in strategic areas of Mindanao in the late 1960s and escalated into a full-scale secessionist war in the 1970s.

According to the listening process participants, aside from the structural drivers of land dispossession detailed above, systematic

land dispossession was the result of the combination of several additional factors. Recurrent joint military and paramilitary operations ostensibly conducted to capture suspected rebels led to the forcible and long-term evacuation of Moro and indigenous residents to distant sites. This, in turn, provided an opportunity for migrant settlers to take over and possess the vacated lands by officially registering and titling them.

Furthermore, military operations were initiated to facilitate the entry of extractive industries such as mining, industrial plantations, and logging in Moro and indigenous occupied areas. In cases where coercion failed or was successfully avoided, land speculators married into Moro and indigenous families to gain possession of their land, exploiting local intermarriage practices of promoting peace and reconciliation. As a consequence, Moro and indigenous communities were dispossessed of their lands and suffered increasing poverty accompanied by a loss of cultural identity. Without land, many residents were forced to leave their communities and work as wage earners in urban areas.

Healing and reconciliation

The Bangsamoro narrative of "brokenness," as formulated during the listening process, speaks about the painful consequences of years of neglect and social exclusion. Nevertheless, the participants in the listening process sessions expressed a strong need for the acknowledgment of their narratives and a sense that healing and reconciliation was desirable. They conceded, however, that healing and reconciliation would be a long and drawn-out process marked by difficulties and complications. Indeed, for healing and reconciliation to begin and take root, conditions conducive to the flourishing of public trust would have to be established. One of the foremost conditions, expressed by many participants, would be the passage by Congress of a basic law guaranteeing the autonomous status of the Bangsamoro. ¹³

¹³ The reference to a basic law reflects the understanding of the participants at that time. During the period from mid-March to mid-August 2015, the BBL, as drafted by the Bangsamoro Transitional Commission in 2014, was still under debate in Congress. After the failure of the BBL to pass in the Sixteenth Congress, the Duterte administration issued an Executive Order in November 2016 to reorganize and expand the BTC to include representatives of the MNLF as members of the GPH delegation. The newly reconstituted BTC has been given the mandate to draft a new basic law for the Bangsamoro.



Other conditions conducive to healing and reconciliation were also named. Some participants called for the withdrawal of military troops from the conflict zones, while others cited the memorialization of victims, massacre sites, and relics of Martial Law.

Truth seeking and justice were named as two additional conditions for healing and reconciliation. Some recommended the formation of an autonomous and representative body, a "national transitional justice and reconciliation mechanism," to ferret out facts and sentiments arising from the Mindanao conflict. Historical memory commissions or truth commissions were mentioned as examples of mechanisms in other contexts that dealt with the consequences of long-term armed conflicts. A number of participants also advocated the establishment of an appropriate justice mechanism to address effectively atrocities committed during the conflict. Borne out of the experience of conflict-related impoverishment and social and political marginalization, some participants envisioned a healing and reconciliation mechanism that would include the promotion of sustainable livelihoods

Indigenous peoples articulated their desire for the delineation of their ancestral domains through a government issuance of the Certificate of Ancestral Domain Title (CADT).

Moreover, some participants recalled the contribution of women as mediators at the community level during periods of conflict and advocated the institutionalization of a Municipal Reconciliation Committee composed of women who have shown commitment and skills in settling minor conflicts before they could escalate into full-scale armed confrontations.

Gender dimensions

Decades of armed violence has had a deep impact on gender roles and relationships among the Bangsamoro and indigenous peoples. The creation of enabling and lasting conditions for peace requires a careful assessment of this impact, which may have long-lasting consequences in affected communities.

The role of men as livelihood providers has suffered under the stress of chronic poverty. The fact that they are unable to provide for their families due to repeated experiences of forced displacement weighs heavily on them. Young men, in particular, are burdened with expectations associated with the predominant masculine role model of the warrior, i.e., that they should leave their families and join the armed struggle. Furthermore, because of stereotyped "profiling," young Moro men are often perceived as "trouble-makers" or even as "terrorists" and encounter difficulties in finding jobs, accessing higher education, and pursuing other opportunities.

Moro women are also subjected to specific forms of discrimination. Female students wearing a *hijab* or a *niqab* have been barred from attending classes at certain institutions of higher education. Others blamed the rejection of loan applications on account of their being Muslims. Some Moro women stopped wearing *hijab* because of discrimination and now express fears about gradually losing their identity.

Women have been the primary object of sexual abuse and military sexual slavery during military operations. A number of accounts were given, according to which women and girls had been abducted, raped, and killed by State security forces and non-state armed groups. As a result, women survivors have been stigmatized as persons bringing "shame" upon their families and communities. Despite such accounts of rape and other forms of sexual violence, there is a lack of services for trauma counseling available at the community level.¹⁴

Women also carry the burden of forced displacement due to war-related events. They head households alone when their husbands leave to look for work elsewhere or join the armed struggle. In such situations, women are "left behind" to care for their children and provide support for their families. Women and girls in displacement centers are known to be vulnerable to sexual abuse and trafficking.

From the perspective of gender equality, some consequences have been positive. Women, who are forced to act as the sole head of their households alone have also learned to assume productive roles, negotiate public spaces, and make major decisions to generate stable income and livelihood for their families. Nevertheless, single-parent households headed by women rank among the poorest in the Autonomous Region in Muslim Mindanao (ARMM).

With respect to land stewardship, in spite of progress in gender equality in recent years, men remain the primary owners and administrators of land and property. The fact that women have limited opportunities to own land and limited control over property makes them more vulnerable to the social, political, and economic impacts of unjust land dispossession.

The reintegration of former combatants following the end of the conflict will require significant adjustments for both men and women. The active participation of women in society is a factor that could contribute to healing and reconciliation.

¹⁴ Men in rural districts also lack access to such services, many of whom are former combatants and may be suffering from post-traumatic stress disorder.

4. THE BANGSAMORO OPPORTUNITY: CONCLUDING REMARKS

In many ways, the listening process has proven to be the heart and soul of the TJRC engagement on behalf of its mandate. The TJRC mandate was not simply a technical exercise designed to elicit information by conducting consultations, assessments, and surveys. Indeed, much of this information already exists and was accessed by research undertaken by the TJRC study groups, the Dealing with the Past Assessment, and through the key informant interviews. As part of the normalization process, however, the TJRC was also mandated to propose interventions that could address the "physical, mental, and spiritual wounds" of the Bangsamoro people. This was certainly the most challenging demand placed on the work of the TJRC, as it touched upon the human dimension of the conflict and required attention to the personal and collective tragedy of untold loss and pain over generations and to the potential for healing and renewal.

The listening process informs us how a solid approach to dealing with the past may strengthen the peace process. It has not only brought out many unheard voices from communities throughout Mindanao and the island provinces, but it has also encouraged conflict-affected communities to engage in the design and development of recommendations to address the legacy of the past in a future-oriented manner. The impression that remains is that the listening process is a viable model to motivate communities, both as social subjects and as survivors, to participate in the further development and implementation of transitional justice initiatives.

At the same time, the listening process sheds a sobering light on the potential for sustainable peace. An honest appreciation of the findings must acknowledge the fact that there are still many obstacles to be faced in addressing the subject matter of the TJRC mandate and that a culture of violence has arisen that is resistant to the peaceful resolution of conflict. Without substantial effort and the political will to secure a solid legal framework that upholds people's rights and the duty of the state to respect and protect them, significant change in the political, social, and

economic status quo is unlikely. In this case, the opportunity for healing and reconciliation in the Bangsamoro may be lost and those participants in the listening process who voiced skepticism over the peace process will have the last word.

In general terms, the significance of the findings of the listening process for transitional justice can be summarized as follows:

- Acknowledgment: The Bangsamoro and indigenous peoples demand acknowledgment of their right to exist as peoples with their own specific ethnic and religious identities and proud histories. They ask that the facts pertaining to the decades of human rights abuse and to their dispossession from the land of their ancestors be established. They want to know what happened, who was responsible, why it happened, and for what purpose. They believe that they should be part of the effort to establish those facts.
- Accountability: The Bangsamoro and indigenous peoples
 call for an end to impunity. Political authorities on all levels
 must assume their responsibility and put a legal framework
 in place that guarantees accountability for crime and
 corruption and which protects citizens from state-sponsored
 and paramilitary violence as well as the horizontal violence
 of rido. This is the conditio sine qua non which will provide
 them with the measure of safety necessary to rebuild
 their communities and enable them to pursue their livelihoods
 in an atmosphere of peace and security.
- Restitution: The Bangsamoro and indigenous peoples demand that those lands which have been unjustly acquired be restituted to them or, if this is not possible, that adequate compensation be given. They insist that development assistance be shared equally among those in need and that they be consulted in the design and implementation of development projects. Furthermore, they must have access to adequate and affordable medical care, including psychosocial support services, and their children must have an opportunity to learn about the history of their own peoples in their school curricula and through local histor initiatives.

• Autonomy: The Bangsamoro and indigenous peoples claim their right to self-determination through a basic law that guarantees them autonomy within the framework of the Philippine constitution. Once established, their autonomous government shall ensure that the new legal and institutional framework adheres to the rule of law and that all citizens shall have equal access to justice as an effective, nonviolent means of recourse to resolve disputes. Institutional reform, moreover, shall promote more equitable power-sharing arrangements as a means of regulating class conflicts, reconciling societal fragmentation along ethnic and religious lines, and promoting economic development.

Their message is directed to national, regional, and local government authorities, to the armed forces and other members of the security sector, to civil society and the private sector, and to the Philippine people at large. They address their appeal, moreover, to all non-state armed actors involved in the peace process, especially to the leadership of the MILF.

Conditions for a national transitional justice and reconciliation mechanism

The TJRC introduced the idea of creating a national transitional justice and reconciliation mechanism on the Bangsamoro in general terms during the validation workshops in December 2015. The question was the subject of a longer discussion among the participants. A number of points raised focused on the conditions necessary for such a commission to operate successfully. Some observations made at that time are worth mentioning here, as they reflect concerns raised among the participants.

The following conditions were considered by the participants as essential to the success of a future national mechanism on transitional justice and reconciliation in the Bangsamoro:

a. A national transitional justice and reconciliation mechanism shall be established as a result of a joint decision by the parties to the peace process. This underlines the fundamental issue of joint ownership, a key factor that will lend credibility to the mechanism among all concerned stakeholders and will

grant it the legitimacy needed to fulfill its mandate. The autonomy of the mechanism must be ensured as well.

- b. It shall be led by Philippine nationals, of whom a majority are of Bangsamoro ancestry. The members appointed to direct the mechanism shall be figures of the highest moral integrity and known independence with the professional experience and authority to generate confidence and cooperation among all involved parties for the highest impact on the ground to be attained;
- c. It shall be guided by a comprehensive, inclusive, and gender-sensitive approach to dealing with the past. This means that the mechanism shall develop a single nationally-owned, strategic plan that includes a combination of measures to ensure truth seeking, judicial accountability, reparations, and institutional reform in the future Bangsamoro region. Furthermore, it shall engage with all concerned stakeholders in implementing its mandate, while paying particular attention to the needs of women and children:
- **d. It shall address the root causes** of the conflict through a series of short-, medium-, and long-term measures designed to address legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. In addition, the mechanism will need the requisite legal powers to enforce its mandate and the flexibility to review and adjust its operations in accordance with the changing situation on the ground;
- **e.** It shall report regularly to its mandatory body and to the **public** on its activities and undergo monitoring by civil society organizations.

On a final note, the listening process has revealed a society deeply wounded and divided by decades of violent conflict and patterns of historical injustice and land dispossession that reach back to the colonial era. This is a fact that needs acknowledgment. At the same time, it also brought to light communities which are eager to move beyond past grievances in an effort to forge a common future based on mutual respect for the dignity and the human rights of all members of society. They are poor and they are tired of war and displacement. They do not want any more words. Instead, they demand the resolute decision making that will enable them to re-establish relations on the basis of a new political framework. It is their hope that they can finally experience some form of closure and that opportunities for healing and reconciliation will then develop. This hope is linked to a future dialogue that must take place between the Philippine government and the future Bangsamoro authorities and between the Bangsamoro, indigenous, and Christian communities among themselves.





THE TJRC LISTENING PROCESS REPORT

CHAPTER 1 THE TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION

Presents the TJRC mandate, its composition, conceptual approach, and recommendations.

CHAPTER 2 TJRC LISTENING PROCESS: RATIONALE AND METHODOLOGY

Presents the TJRC listening process rationale and methodology, including operational and contextual challenges, gender sensitivity, data collection and evaluation, and the procedures used in realizing the report.

CHAPTER 3 TJRC LISTENING PROCESS: NARRATIVES AND INSIGHTS

Presents the results of the listening process—narratives and insights based on the main findings—in accordance with the topics of the TJRC mandate.

CHAPTER 4 THE "BANGSAMORO OPPORTUNITY": CONCLUDING REFLECTIONS

Presents concluding reflections on the Bangsamoro opportunity, focusing on the insights learned from the listening process and proposals concerning the conditions necessary for transitional justice and reconciliation.





THE TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION (TJRC)



The Listening Process Report of the Transitional Justice and Reconciliation Commission (TJRC) supplements the main report of the Commission published in March 2016. The present report presents the rationale, methodology, and outcome of the listening process as one of the four components of the TJRC consultation process.

The TJRC was established in accordance with the Normalization Annex of the Framework Agreement on the Bangsamoro (FAB), signed on 25 January 2014, with the mandate to undertake a study of four specific issues, i.e., legitimate grievances of the Bangsamoro people, historical injustice, human rights violations, and marginalization through land dispossession, and to recommend appropriate mechanisms to address these four interconnected issues, so as to promote healing and reconciliation among the different communities affected by the conflict in Mindanao and the Sulu archipelago. The Normalization Annex specifies that the TJRC shall be chaired by an independent international expert on transitional justice and be comprised of commissioners nominated by both panels.

The Government of the Philippines (GPH) and Moro Islamic Liberation Front (MILF) peace panels constituted the membership of the TJRC as follows:

Chair: Ms. Mô Bleeker, Special Envoy, Swiss Federal Department of Foreign Affairs;

GPH Delegate: Atty. Cecilia Jimenez-Damary;

GPH Alternate Delegate: Atty. Mohammad Al-Amin Julkipli;

MILF Delegate: Atty. Ishak Mastura;

MILF Alternate Delegate: Atty. Abdul Rashid Kalim; Senior Adviser: Mr. Jonathan Sisson, Swiss Federal

Department of Foreign Affairs.

The TJRC was supported by office staff based in Manila and in Cotabato City and by a senior gender adviser, Dr. Ma. Lourdes Veneracion-Rallonza.

The TJRC commends the peace panels for their foresight and appreciation of the urgent need to address the painful legacy

of the violence and the root causes of the conflict, in order to ensure a successful transition to peace and the rule of law in the future Bangsamoro region. As such, the creation of the TJRC signals a consensus among the parties to the conflict on the need to address by peaceful means what they agree to be some of the most contentious issues fueling the conflict: the legitimate grievances of the Bangsamoro people, historical injustice, human rights violations, and marginalization through land dispossession. As a consequence, the TJRC has received a clear mandate to examine these issues and to make concrete recommendations regarding how they should be addressed.

1.1 The TJRC Consultation Process

Operationally, the TJRC followed a problem-solving approach and, to this end, developed a consultation process that combined a broad-based exercise of listening at the community level with an expert review of existing relevant academic literature and field studies, as well as with a series of key policy interviews. In total, more than one hundred persons—women and men—from the Bangsamoro region and at the national level actively engaged with the TJRC as facilitators, experts, or key informants in its consultation process. The profile of those who collaborated with the TJRC includes peacebuilding, conflict transformation, and human rights practitioners, community and religious leaders, academics and experts in Mindanao and Bangsamoro studies, public servants, and representatives of the security and private sectors.

This elaborate process of consultation shaped the TJRC's understanding of the social, cultural, political, economic, and historical factors that gave rise to the current conflict and have sustained it over decades. Moreover, it provided deep insight into the clan structure, institutional architecture, and means of governance in the Philippines and in the Bangsamoro. Additionally, the TJRC developed a conceptual framework and analysis based on the Swiss "Dealing with the Past" (DWP) approach that informed its understanding of the results of the consultation process and enabled it to craft its recommendations accordingly, so

that they would be at once realistic, feasible, sustainable, and—not the least—meaningful to the Bangsamoro people, to other affected communities in Mindanao, and to Philippine society at large.

Figure 1: Listening process sessions in communities in Mindanao. (Note that the data indicated are approximations. The number of participants from Sulu which appears in the TJRC March 2016 report has been corrected here to reflect a more accurate figure).

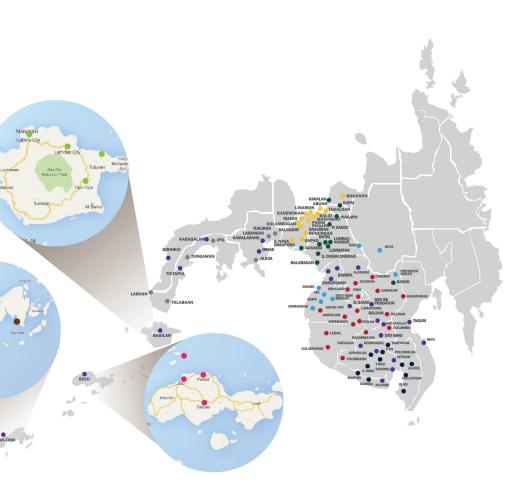
MINDANAO

BASILAN	MALE=151	FEMALE=94	245
CENTRAL MINDANAO	MALE=379	FEMALE=183	562
INDIGENOUS PEOPLES AREAS	MALE=138	FEMALE=126	264
LANAO DEL NORTE	MALE=291	FEMALE=204	495
LANAO DEL SUR	MALE=120	FEMALE=161	281
SOCSARGEN	MALE=228	FEMALE=89	317
TAWI-TAWI MAINLAND	MALE=138	FEMALE=126	264
TAWI-TAWI ISLANDS	MALE=291	FEMALE=204	495
SULU	MALE=111	FEMALE=40	151
ZAMBOANGA PENINSULA	MALE=111	FEMALE=122	233
TOTAL	1958	1349	3307





During the listening process, the TJRC engaged with 211 Moro, indigenous, and settler communities in Mindanao and the Sulu archipelago, involving some 3,307 community members and local officials.



The work of the TJRC was guided by several key principles:

- a. Building local and national ownership;
- b. Developing a Filipino and Bangsamoro approach to transitional justice and reconciliation;
- c. Being sensitive to gender and culture;
- d. Contributing to the process of conflict transformation and trust building;
- e. Keeping pace with the ongoing peace process.

The TJRC is neither a "truth commission" nor an ad hoc official fact-finding body. It is an independent commission mandated to make a report and propose holistic measures to deal with the legacy of a violent past. Nevertheless, in the course of its consultation process, the TJRC received solid, concrete information about events which can be categorized as serious violations of international human rights law (IHRL) and international humanitarian law (IHL). Some of this information is based on survivor testimony; other information is stored in archives and refers to atrocities that were committed several decades ago. In some cases, the testimonies referred to violent incidents that remain unknown to the public to this day. The majority of witness statements and records are backed up by previous reports, but some of them would require further investigation for confirmation.

Concerning the credibility of the narratives that make up the findings in this report, the TJRC decided that it would not attempt to evaluate the veracity of participant statements according to judicial standards. Instead, it would suffice if the information gathered and testimonies provided during the listening process were consistent with acknowledged literature and research on the subject matter. In choosing statements for quotation, the TJRC paid attention that the statements chosen were typical of the sentiments expressed by persons in different communities in different regions of Mindanao.

1.2 Learning from Past Experience in the Philippines

It is worth noting that other initiatives associated with the universe of transitional justice have been undertaken previously in the Philippines.¹⁵ Most of these efforts have focused on fact finding. During the Marcos regime, for example, a formal commission of inquiry was set up to investigate the assassination of Senator Benigno "Ninoy" Aquino. Not surprisingly, perhaps, the commission did not complete its investigation and failed to file a report. In February and March 1986, respectively, President Corazon "Cory" Aquino set up two ad hoc entities to investigate corruption and human rights violations under President Marcos—the Presidential Commission on Good Government (PCGG) and the Presidential Committee on Human Rights (PCHR). While the PCHR was subsequently transformed into the Commission on Human Rights (CHR), the PCGG continues to operate as a government agency to this day. More recently, no less than eight separate investigations were undertaken to examine the Mamasapano incident.

An important, recent example is the Human Rights Victims Claims Board (HRVCB), created by virtue of Republic Act (RA) 10368 in 2013 and mandated to recognize and/or provide reparations for victims of human rights violations committed from September 1972 to February 1986. The HRVCB is the only national transitional justice mechanism that has focused specifically on the right to reparation for victims of past abuses, in this case under President Ferdinand Marcos during and after Martial Law. In this regard, the HRVCB has attracted enormous public interest, while operating under difficult conditions. ¹⁶ By May 2015, more than 75,730 applications had been submitted by claimants, far beyond the expected number of 20,000 claims. ¹⁷ To give the HRVCB more time to work on processing these claims, its timeline was extended to May 2018 with the passage of RA 10766.

¹⁵ The following examples have been drawn from the TJRC Dealing with the Past Assessment (see footnote 11 above).

¹⁶ In post-conflict contexts, reparation claims often follow some form of truth seeking that would examine the scope and nature of the human rights violations that had occurred during a certain time period and determine the identity of the victims. The HRVCB, however, was set up without such preparation and was under pressure from the beginning to establish categories of violations and criteria to identify victims.

¹⁷ Human Rights Violations Claims Board. Press Release. Available at: http://www.hrvclaimsboard.gov.ph/index.php/claim-process/announce-ments/98-press-release-6-2015.



Though important in and by themselves, these initiatives have not had a significant impact on the present conflict in the Bangsamoro. In particular, they have failed to address the issue of impunity and to prevent of the recurrence of conflict-related human rights violations. In general, past initiatives in the Philippines related to transitional justice have been regarded as problematic and ineffective for several reasons:¹⁸

- They did not adequately address root causes;
- They were not implemented as a result of a broad and transparent consultation;
- They promoted isolated measures, instead of a holistic strategy;
- They were not able to draw a line before and after the period of wrongdoings and injustices;¹⁹
- They did not contribute to the prevention of revisionist discourse and denial about injustices committed.

¹⁸ TJRC March 2016 Report, p. 73 (91).

¹⁹ This critique does not apply to the HRVCB, which does, in fact, have a clear time frame for the abuses covered by its mandate, as cited above. Ironically, many persons in Mindanao who approached the HRVCB were unable to submit claims, because the violations which they allegedly suffered took place either before or after the time period covered by its mandate.

Lessons learned from these experiences are relevant to the pursuit of transitional justice in the Bangsamoro, in the same manner that the way in which the past is dealt with in the Bangsamoro context could contribute to the rest of the country's capacity to provide justice, healing, and reconciliation.²⁰

1.3 The TJRC Mandate: Findings and Analysis

For the TJRC, the four issues of its mandate mentioned above are interrelated and intertwined. The Bangsamoro peoples' narrative of historical injustice frames the experience of legitimate grievances, particularly in relation to their social, political, and economic marginalization through land dispossession and their sense of victimhood in the face of widespread human rights violations committed against them. Moreover, the TJRC came to the conclusion that these issues have arisen as the consequence of three interlocking phenomena—violence, impunity, and neglect—that, in turn, are rooted in the imposition of a monolithic Filipino identity and Philippine State by force on multiple ethnic groups in Mindanao and in the Sulu archipelago that saw themselves as already preexisting nations and proto-nation-states.

At this juncture in the peace process, it is important to emphasize that initiatives in transitional justice and reconciliation are crucial not only to the future of the affected communities in the Bangsamoro, but also to Philippine society at large, and that by addressing these sensitive issues in a constructive manner, the Philippine government can indeed contribute to a sustainable peace based on the rule of law.

Although the two parties signed the CAB in March 2014, the Sixteenth Philippine Congress failed to pass the proposed Bangsamoro Basic Law (BBL) that would have provided the necessary political and institutional framework to implement the agreement. In the meantime, national elections have taken place and a new administration is in place. The government of President Rodrigo Duterte has made progress in the peace process a priority and yet the situation on the ground remains volatile. Other armed

²⁰ TJRC March 2016 Report, p. 4 (6).

actors continue to be active in Bangsamoro areas, and many communities in the region still lack access to basic services.

The TJRC approach

Transitional justice is a political and legal concept that, by necessity, needs to be adapted to, appropriated by, and eventually transformed in accordance with the cultural patterns and socio-economic structures of each context in which it is practiced. The TJRC developed its own conceptual approach to transitional justice, based on the Swiss model for dealing with the past, and arrived at a framework with its own vocabulary and cultural references, including attention to the matter of gender sensitivity. This framework measures up to international standards and yet it is close to the heart and the reality of the Bangsamoro people.

The TJRC bases its approach on the principles against impunity, which were developed in the 1990s at the United Nations Sub-Commission on the Protection and Promotion of Human Rights and now enjoy the status of emerging customary law.²¹ It also takes into account norms and standards in the field of transitional justice, as elaborated in other UN reports and resolutions.²² Moreover, the TJRC approach acknowledges the framework of international human rights and international humanitarian law and addresses root causes of the Bangsamoro conflict.

²¹ The principles against impunity were initially formulated by UN Special Rapporteur Louis Joinet in his final report on the administration of justice and the question of impunity to the UN Sub-Commission in 1997 (E/CN.4/Sub.2/1997/20/Rev 1.) and were later revised by UN Special Rapporteur Diane Orentlicher at the behest of the Commission on Human Rights in 2005 (E/CN.4/2005/102/Add.1).

²² In September 2011, the UNHRC created a special mechanism for the promotion of truth, justice, reparation, and guarantees of non-recurrence based on the principles against impunity and other international legal principles. See: "Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence." UNHRC. A/HRC/RES/18/7. 13 October 2011. Available at: https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/166/33/PDF/G1116633.pdf?OpenElement (accessed on 12 June 2015).

The conceptual framework for dealing with the past adapted by the TJRC (see Figure 2 below) is practice- and process-oriented.²³ The DWP framework regards conflict transformation as an important aspect of transitional justice. Four key complementing principles constitute the framework thematically and practically, i.e., the "right to know," the "right to justice," the "right to reparation," and "guarantees of non-recurrence." The framework, as such, offers a constructive approach to dealing with past wrongdoings, while supporting and strengthening the peace constituency and conflict transformation process. Significantly, the framework suggests that some form of dealing with the past on a societal level is a prerequisite for reconciliation.

The principles against impunity acknowledge and define the rights of victims to claim and the obligation of the State to provide remedies for serious violations of IHRL and IHL. Taken together, the principles against impunity form the components of a holistic strategy to address grievances and past abuses. Moreover, the TJRC framework stresses the potential for dialogue and trust building between State institutions and disaffected sectors of society through the acknowledgment of the rights of victims to assert and of the obligation of the State to provide remedies.

With respect to terminology, the TJRC prefers to use the expression "dealing with the past" rather than "transitional justice," because it is convinced that dealing with a legacy of violent conflict is not only—or even primarily—the task of legal professionals. On the contrary, just as a majority of the population in the Bangsamoro has been affected by the conflict in some form, so should everyone also be able to contribute in some way to the process of reconciliation. In this sense, dealing with the past is both a top-down and a bottom-up process. Nevertheless, both terms—"transitional justice" and "dealing with the past"—are used interchangeably in this report.

²³ The TJRC framework for dealing with the past is based on the DWP model developed jointly by the Swiss Federal Department of Foreign Affairs (FDFA) and swisspeace. For a description of that framework and design, see: Sisson, Jonathan. "A Conceptual Framework for Dealing with the Past." In: Politorbis. FDFA. No. 50. 3/2010. Pp. 11-16.

Figure 2: Dealing with the Past framework



1.4 The TJRC Recommendations

The TJRC recommendations were outlined in its report submitted to the peace panels in December 2015, which was subsequently published and launched publicly in March 2016.

The TJRC is aware that it shall take time to address the issues outlined in its mandate in a coherent and comprehensive manner and to bring durable peace to the Bangsamoro and in the Philippines. Therefore, the TJRC proposes an incremental and flexible approach that combines mutually reinforcing efforts in the fields of truth, justice, reparations, and guarantees of non-recurrence, while promoting reconciliation initiatives on the local, regional, and national levels. All these recommendations stem from the listening process sessions, the study group reports, the key policy interviews, and other reports mandated by the TJRC.

The TJRC proposed two sets of recommendations in its March 2016 report.

One set of recommendations focused on the creation of a national mechanism, namely, the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB).

The overall mandate of the NTJRCB shall be to implement the Dealing with the Past Framework, to promote healing and reconciliation, and to ensure that its four separate Sub-Commissions undertake following tasks in cooperation with relevant existing institutions and actors:

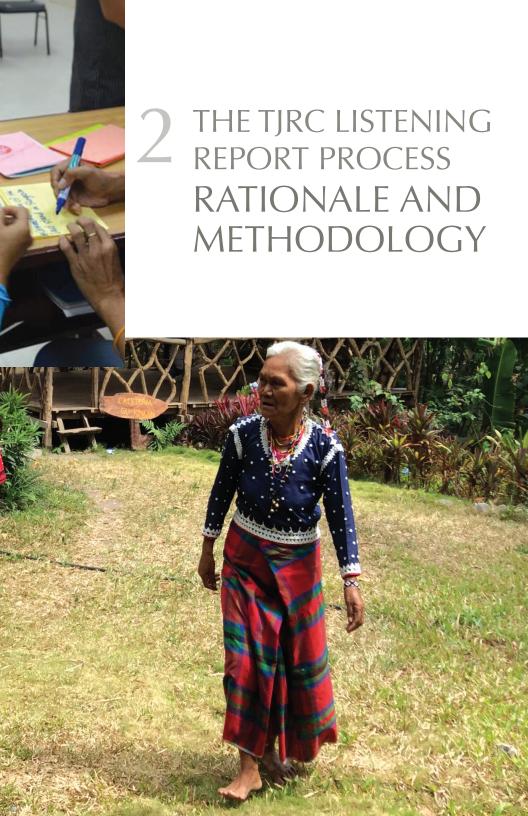
- To realize public and confidential hearings with the participation of victims of the conflict, to investigate serious violations of international human rights and international humanitarian law, and to implement remedies;
- To contribute to the resolution of outstanding land disputes in conflict-affected areas in the Bangsamoro, to address the legacy of land dispossession, and to implement remedies;
- To contribute to the dismantling of impunity, the promotion of accountability, the strengthening of the rule of law in relation to past and present wrongdoings, and to implement remedies;

 To promote healing and reconciliation among the different communities affected by the conflict.²⁴

The other set of recommendations outlined 90 specific recommendations related to dealing with the past, many of which derived from proposals made during the TJRC listening process.25 These recommendations are directed to governmental and semi-governmental agencies, including local government units, as well as to civil society and the private sector. Existing state institutions and non-state organizations can implement the TJRC recommendations by mainstreaming them into their current programs and operations and by cooperating with the proposed NTJRCB. The specific recommendations are categorized according to the four pillars of the Dealing with the Past Framework. namely the right to know, the right to justice, the right to reparation, and guarantees of non-recurrence. The spirit of these additional 90 recommendations reflects the profound awareness that processes of dealing with the past, healing, and reconciliation are essential endeavors that entail the continuous engagement of the "whole of government" and of all sectors of society.

²⁴ Concerning the mandate and operational framework of the NTJRCB, see: TJRC March 2016 Report, pp. 74-79 (92-99).

²⁵ Concerning the formulation of the set of 90 recommendations, see: TJRC March 2016 Report, pp. 79-92 (99-115).





2.1. Designing the Listening Process

The TJRC was not mandated to operate as a truth commission nor was it equipped to provide psychosocial support to victims. Nevertheless, it was crucial for the TJRC to understand the scope and complexity of the issues of its mandate from the perspective of those communities directly affected by the conflict. To this end, the TJRC developed a methodology based on the idea of "active listening." To distinguish it from traditional consultations, the TJRC referred to this approach as a "listening process."

The listening process is an inclusive and extensive method of community-based consultation developed by the TJRC in consonance with its mandate "to recommend the appropriate mechanisms to address legitimate grievances of the Bangsamoro people, historical injustice, human rights violations, and marginalization through land dispossession towards healing and reconciliation." The TJRC listening process design took into account good practices and

critical lessons learned from other experiences of transitional justice in contexts of protracted armed conflict.

From the beginning, the TJRC was convinced of the importance of findings that emanate from an iterative two-way process of dialogue between the TJRC and communities based in Mindanao and the Sulu archipelago. The TJRC made the decision to engage in consultations with the intention not only of involving a wide range of constituencies and thereby eliciting a broad spectrum of ideas, but also of generating ownership and mobilizing the social capital necessary to implement its recommendations. On the ground, the consultations were conducted in a way that captured the multiplicity of experiences, differences of opinion, and diversity of visions for the future of the communities consulted. Moreover, a focus was placed not only on the needs and expectations of the participants, but also on creative expressions of resilience formulated by various stakeholders.

With the Mindanao context in mind, the TJRC designed a consultation process that took note of two crucial factors: First of all, "transitional justice" as a means of enabling societies in transition to address the short- and long-term effects of protracted armed conflict and deep-seated animosity was broadly unfamiliar even foreign—to Philippine constituencies. At the same time, the wording of the TJRC mandate—focusing on legitimate grievances. historical injustice, human rights violations, and marginalization through land dispossession-resonated rather meaningfully to their ears. Accordingly, the TJRC decided to concentrate on the issues, as they were framed in its mandate. It was only after the consultations had taken place that the TJRC analyzed the results according to its conceptual framework for dealing with the past and formulated its recommendations. Secondly, although the TJRC was set up as part of the architecture of the peace process, there existed a need to establish the legitimacy and credibility of the TJRC among stakeholders at the community level. In order to bridge this gap and reach out to the concerned constituencies, the TJRC decided to engage in a broadly-based consultation process that would involve the widest array of stakeholders.

2.2. Implementing the Listening Process

The preparations for the listening process began with the search for two experienced coordinators of known integrity, who enjoyed the trust of the communities on all sides of the conflict, who were suitably trained in the rigors of the social sciences, and who could organize and coordinate the implementation of the listening process in the region. On the basis of these criteria, the TJRC selected Professor Rufa Cagoco-Guiam of Mindanao State University (MSU) in General Santos City as lead coordinator of the listening process, and Mr. Guiamel M. Alim of the Consortium of Bangsamoro Civil Society (CBCS) as deputy coordinator. In addition, Mr. Guiamaludin G. Guiam, a civil society advocate, was given the overall responsibility of ensuring that the data gathered during in the listening process sessions were properly documented.

The coordinators were requested to assemble a team of some two dozen facilitators, who would be responsible for conducting listening process sessions in dozens of local communities of differing makeup in Mindanao and in the Sulu archipelago. As criteria for their selection, the TJRC proposed that they should be experienced professionals who were highly familiar with their local context, known and trusted by communities that they would work with, and should master local languages in addition to Filipino and English. In addition, the selection procedure paid attention to gender- and culturally-sensitive issues. Upon the recommendations of the coordinators, the TJRC constituted 12 listening process facilitation teams composed of 24 men and women of diverse religious, ethnic, and cultural backgrounds closely reflecting the broader Mindanao constituencies and specific Bangsamoro communities of Muslims, Christians, and indigenous peoples.

During a four-month period between December 2014 and March 2015, the TJRC and the Listening Process (LP) coordinators organized a series of workshops in order to equip the facilitators with special skills needed to conduct listening process sessions. The main topics covered by the workshops included the mandate of the TJRC, its conceptual approach in dealing with the past, and the methodology of the listening process. The value of "active"



listening" was highlighted as one of the more important pillars of the listening process and practiced in the form of role play and responsive dialogues.

Written questionnaires aimed at eliciting answers, and reflecting community perspectives, were prepared to guide the conduct of the listening process sessions.²⁷ The listening process teams also developed a data capture form (DCF) to document the sensitive narratives shared by the participants. Active listening compelled facilitators to listen to the participants with empathy, without interrupting or correcting their testimonies. The facilitators were carefully instructed to adopt a non-judgmental stance, while listening to the narratives of the participants with empathy. At the same time, they were encouraged to ask the participants to clarify points or substantiate their stories and experiences. Importantly, the facilitators were instructed to inform the participants that the information provided to the TJRC during the listening process sessions would be held with strictest confidentiality.

 $^{^{\}rm 27}$ For an example of the TJRC Listening Process questionnaire, see Annex 2.

The preparatory workshops also addressed the serious issue of "consultation fatigue" on the premise that many communities across Mindanao had already been the subject of surveys and opinion polls. Past surveys had reportedly raised false expectations without delivering meaningful and transformative results. In this case, a new methodology was being introduced to serve a different purpose. While a majority of the facilitators had previous experience in conducting surveys, the emphasis of the listening process methodology on dialogue and on gender and conflict sensitivity was new and challenging.

As part of the logistical preparation, the facilitators were organized into two-person teams that coordinated with local contacts to identify prospective participants and the appropriate settings in which to hold the listening process sessions. The facilitators were equipped with a backpack containing a tablet computer, which also served as a camera and voice recorder, office supplies, communication cards, and basic medical kits. To address security concerns, local authorities were informed in advance about the plan to conduct TJRC listening process sessions in their communities.²⁸

Immediately after the first round of the listening process sessions in April 2015, the facilitators attended a debriefing workshop designed to evaluate the quality of the first set of results, to assess whether the methodology was appropriate or not, and to address critical issues that needed attention. On this occasion, the TJRC gender adviser provided suggestions on how to improve the gender sensitivity of the overall approach and in specific situations of dialogue.

From mid-March to mid-August 2015, twelve teams of facilitators conducted listening process sessions in some 211 communities located within the core territories of Bangsamoro and in contiguous or related areas.²⁹ Each listening process team was responsible for conducting listening process sessions in at least 18 communities³⁰

²⁸ For sample communication and letters, see Annex 3.

²⁹ "Related areas" are areas that are not contiguous or adjacent to the identified core territories of Bang-samoro, but have a significant number of Bangsamoro among their populations or are areas affected by armed conflict since the 1970s until the present.

³⁰ Some teams conducted more than the prescribed 18 sessions. For example, the team in Lanao del Sur conducted 19 listening process sessions, while one of

or localities in Central Mindanao, including Zamboanga Peninsula and in the island provinces of Sulu, Tawi-Tawi, and Basilan within a period of three months.31 The majority of the listening process sessions were conducted in Moro and indigenous communities. A smaller number of the listening process sessions were held in communities, in which the majority of participants were Christian settlers.32

During each session, an average of 15 participants shared personal experiences as members of their communities as well as their insights on and knowledge of the issues pertaining to the TJRC mandate. On a few occasions, attendance was lower for reasons of security and mistrust. Far from being saddled by "consultation fatigue," most participants, in fact, welcomed the opportunity to share their stories as something that rarely happens, especially in hard-to-reach and far-flung areas. Indeed, many claimed that it was the first time thev could speak publicly about the pain and suffering they had carried deep inside for years. In some cases, the participants flooded in despite efforts of the facilitators to keep the number of participants at a manageable level. Community members insisted in joining the sessions, offering to serve merely as "listeners" who could "confirm" the stories of the "official" participants. Consequently, some listening process sessions were attended by two sets of "listeners"—the facilitators and the additional community members.

the teams in Central Mindanao held 20 sessions. The team responsible for the MILF communities was a special case. The team was comprised of five members, including a gender adviser, and visited 32 MILF communities in Mindanao and in the island provinces.

³¹ See: Figure 1 above with a map of Mindanao and the Sulu archipelago, showing areas visited by the facilitation teams.

³² For this reason, a majority of the references in the present report are formulated as narratives by Bangsamoro and indigenous peoples (IP). Accordingly, it is the viewpoint of these two groups that is giv-en the most prominence in this report. This is not meant to belittle the contribution of the Christian set-tlers. On the contrary, the TJRC is cognizant of the fact that, as representatives of the majority community in Mindanao, their voice must be heard, and that they have a crucial role to play in any process of dealing with the past and reconciliation. The mandate of the TJRC, however, placed a focus on the experience of the Bangsamoro people.

By the end of the listening process in mid-August 2015, some 3,307 participants had taken part in listening process sessions, of whom 60 percent (1,958) were men and 40 percent (1,390) were women (1,349).³³ The focus on the involvement of both women and men in these sessions (and later in the validation sessions), working at times in segregated groups, was based on the premise that the very process of uncovering stories and insights and the reconstruction of narratives during the listening process sessions would also reveal a gender perspective. Understanding this perspective was deemed necessary to craft appropriate policy recommendations and to design gender-sensitive transitional justice mechanisms and programs.³⁴

Following the conclusion of the listening process sessions and before the completion of the first draft of the TJRC report, the Commission convened two "validation" sessions, inviting representatives from all the communities involved in the listening process to attend. These meetings, which were crucial for trust building, were designed to verify whether the TJRC had properly understood and captured the most important elements of the community narratives, and to ensure that their recommendations had been correctly articulated. Nearly 200 community representatives attended the two validation sessions, with 109 persons attending the session in Zamboanga City and 86 persons in Cotabato City. Both feedback sessions were held in December 2015.

2.3. Sensitivity to Gender Dynamics

The listening process was designed to elicit how Bangsamoro women and men experienced legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. A gender perspective that recognizes the differential impact of the armed conflict on women and men

³³ See: Figure 1 above for the breakdown of these statistics according to provinces.

³⁴ Methodologically, the TJRC decided to disaggregate women's and men's responses with respect to the four thematic areas of the TJRC mandate. It did so with the support of the TJRC gender adviser. The results show how vital it is to distinguish differences in the impact of armed conflict upon women and men, to identify the types of violence experienced predominantly and specifically according to gender, and, in this way, to uncover gender-specific insights/notions of justice and reconciliation.

enabled the TJRC to see beyond the "victim-vulnerability" discourse and uncover the various manifestations of women's and men's responses in dealing with the armed conflict.

To capture the varying manifestations of armed violence, the listening process questionnaires were crafted according to gendered patterns, including a differentiated approach regarding victimhood identity and survivor status.³⁵ In addition, facilitators were trained to pay particular attention to issues, such as sexual violence, and participants were encouraged to narrate their experiences in a manner that reflects and resonates with their cultural, social, and gendered realities.

Out of the 24 listening process facilitators, 11 were women. Five groups were "all-men" teams (Lanao del Norte, Sulu, MILF areas, and Lanao del Sur Cluster II and III) and likewise four were "all-women" teams (Basilan; Sultan Kudarat, Cotabato and Maguindanao Provinces, Tawi-Tawi, and Zamboanga Peninsula), while the remaining three were "mixed men and women" teams (IP areas, SoCSKSarGen and Tawi-Tawi island cluster). Each listening process facilitation team paid attention to ensure equal participation of women and men, though gender balance was not always achieved. In some cases, the facilitators conducted "women-only" sessions due to the sensitivity of the narratives shared by the participants. The "all-women" teams were affiliated with the Women Engaged in Action on United Nations Security Council Resolution 1325 (WE Act 1325). Consequently, they had a better understanding of how to frame these sensitive discussions. In general, it took time for the listening process facilitation teams to recognize and learn to address gender issues properly in the listening process sessions. For example, it was rather late in the listening process before one "all-men" team understood that "gender" was the reason why some of the women in Sulu had been hesitant to speak in detail about the sexual abuse that they had suffered at the hands of government soldiers, and not the fact that the episodes had taken place decades ago during Martial Law. The same was true for the women who were reluctant to talk about forced marriage to fighters of the Abu Sayyaf Group.

nal_Version1.pdf (ac-cessed on 27 November 2016).

³⁵ Legacy Gender Integration Group. Belfast, September 2015. Gender Principles for Dealing with the Legacy of the Past. Available at: http://www.caj.org.uk/files/2015/09/16/Gender_Principle_Report_Sept_2015_Fi-



The listening process did, in fact, reveal additional gender-specific elements of the impact of the conflict on women and men. The participants noted the problem of a disproportionally higher illiteracy rate among women compared to men in the conflict zones. Moreover, women also reported experiences of trafficking and pointed to the lack of adequate protection for women and girls in the conflict areas, especially in camps for internally displaced persons (IDPs). While the male facilitators, in general, failed to take note of the extraordinary burden that the decades of conflict have placed on women, they did identify male experiences of combat and displacement, including the loss of livelihood. These initial findings of the listening process confirm the need to engage in a broader review of the patterns and implications of the conflict from a gendered perspective.

2.4. Operational and Contextual Challenges

The Mamasapano incident



The TJRC was in the final stage of preparations for the listening process when an armed encounter involving members of the Philippine National Police (PNP), the MILF, and other armed groups took place in the rural municipality of Mamasapano, Maguindanao province on 25 January 2015. The clash left some 69 persons dead, including 44 members of the Special Action Force (SAF) of the Philippine National Police (PNP), 18 MILF and other combatants, as well as seven civilians, including a five-year old child.

Mainstream media accounts of the incident focused on the heavy police casualties and spoke of the incident as a "massacre" committed by MILF ground forces. The slant of the media and the ensuing public debate created a national mood averse to the Government – MILF peace agreements, particularly to the passage of the Bangsamoro Basic Law in Congress. The widespread negative publicity generated by the tragic event served as an indicator that a majority of the Filipino public continues to hold the Bangsamoro in disregard as a people with a propensity to commit violence, who cannot be trusted to uphold agreements,

and who seek independence from the Philippines. For the Bangsamoro, the negative national reaction was a confirmation of their grievance that that the larger Philippine public holds deep prejudices against them that have historical roots going back to the Spanish colonial period.

The Mamasapano incident led to a renewal of hostilities and large-scale civilian displacement in Central Mindanao in the months of February and March 2015.36 In light of this development, the TJRC called a meeting of the listening process coordinators and facilitation teams in the first week of March 2015 to ascertain whether it would be prudent or not to proceed with the listening process as scheduled given the circumstances, including heightened security challenges. The decision was to proceed as planned, but to postpone the listening process session in Central Mindanao until after the military offensive had ended. The coordinators and facilitators argued that the renewal of hostilities made the listening process even more urgent. They were confident that the consultations would give the local communities an opportunity not only to present their views and express their feelings, but also to formulate their hopes for the future. Indeed, they were convinced of the need to listen to the narratives of the Bangsamoro communities in order to understand their grievances and to design measures to prevent the recurrence of violence. They believed that the listening process-if the communities responded positively—could provide a way to formulate key issues and, thus, together with a political solution, contribute to a meaningful reconciliation of all communities caught up in the Mindanao conflict.

Rido and other challenges

Recurrent horizontal conflicts in many localities in Mindanao, known as *rido*, posed another problem. *Rido* often involves

³⁶ In the immediate aftermath of the Mamasapano incident, the Armed Forces of the Philippines (AFP) conducted an "all-out offensive and law enforcement operation" against the Bangsamoro Islamic Freedom Fighters (BIFF) in the provinces of North Cotabato and Maguindanao, resulting in the displacement of more than 148,000 persons. The offensive concluded at the end of March 2015, but clashes continued and at least one thousand persons remained displaced as of August 2015. For a full overview of dis-placement during the offensive, see: UNHCR-Protection Cluster. Displacement Dashboard. Mindanao, Philippines Forced Displacement Annual Report, 2015. Available at: http://unhcr.ph/_cms/wp-content/uploads/2015-Mindanao-Philippines-Forced-Displacement-Report_Final-HR3.pdf (accessed on 30 November 2016).



violent forms of revenge, including killings between armed kindred groups or communities and can occur and rapidly escalate without warning at any moment. The fact that a number of listening process sessions were scheduled to take place in places known to have ongoing rido required sensitivity in choosing locations to hold the meetings. Still, the teams encountered problems. One team in Lanao del Sur, for example, had to cancel a scheduled listening process session due to an outbreak of *rido*. Later, the same community requested the team to reschedule the session, which then took place at a later date.

Other challenges concerned the presence of armed groups not necessarily supportive of the MILF, such as the Abu Sayyaf Group (ASG). This heightened security-related issues in the island provinces of Sulu, Tawi-Tawi, and Basilan required precautionary measures. Security challenges notwithstanding, the familiarity and trust between the listening process facilitation teams and the communities they were working with was crucial to the success of the listening process.

A final challenge encountered by the TJRC listening process concerned "consultation fatigue," in particular with regard to the polarizing debate on the proposed Bangsamoro Basic Law. In

many places, facilitators had to explain that the listening process was not part of the Congressional consultations on the BBL taking place in the region at that time. In this regard, the facilitators had been briefed that the TJRC intended to offer recommendations that would be implementable independently of the BBL.

2.5. Gathering and Evaluating Data

The listening process used a highly qualitative technique to elicit data that relates to the four topics of the TJRC mandate by means of a questionnaire designed to explore the experience of the Bangsamoro, indigenous peoples, and Christian setters living in conflict-affected communities for more than forty years. Guide questions encouraged the participants to describe specific experiences of legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession, while also paying attention to the characteristics of those experiences (nature, gravity, and emotional force). The participants were also asked whether or not efforts to address past injustice had been undertaken, and whether some measure of healing and reconciliation had taken place—with or without their personal participation. In this regard, the participants were requested to describe the possible consequences of the failure to address the legacy of the past. In conclusion, the participants were invited to recommend concrete activities and policies to prevent the recurrence of painful experiences in the past.

The process of designing the listening process questionnaire was a complex and highly sensitive task. The TJRC needed to ensure that it addressed the issues of its mandate and, at the same time, captured the experiences of the participants at a level that they could relate to. Moreover, the TJRC had to resolve language issues, particularly in multilinguistic communities where people do not necessarily share a common language. Furthermore, the TJRC had to take into account the sensitivities of the participants and the diversity of their cultural backgrounds in crafting the listening process guiding questions.³⁷

³⁷ For a review of the problem of stereotypes in the perception of the other, see: Cagoco-Guiam, Rufa. 2000. "Telling the Truth of the Other: Images of Islam and Muslims in the Philippines." In: Melinda Quintos de Jesus, ed. The Media and Peace Reporting. Pasig: Office of the Presidential Adviser on the Peace Process (OPAPP). See also: Philippine Human Development Network. 2005. Philippine Human Development Report. Makati: United Nations Development Program.

The question of translation proved to be one of the most vexing problems. It was not only a problem of language, i.e., translation from English into the local languages, but also a guestion of meaning, i.e., the significance of each topic of the TJRC mandate in and by itself. What is meant by "legitimate grievances"? How does one distinguish between "legitimate grievances" and "historical injustice," for example? To what extent might "legitimate grievances" arise from "human rights violations" or might "marginalization through land dispossession" be the result of "historical injustice"? These questions were discussed at length with the facilitators in the preparatory workshops. As a pragmatic way forward, examples pertaining to each of the four different categories were identified to enable some clarity. The facilitators reported that, while some confusion between "legitimate grievances" and "historical injustice" persisted during the listening process sessions, the questions relating to "human rights violations" and "marginalization through land dispossession" were easier to handle and needed no further clarifications. The other hurdle was the practical one of translating "Western" terms to the local vernacular. The agreed solution was to translate the questionnaire from English into Tagalog and then to translate the guide questions into the various local languages used in the different communities

Scope and Limitations

Like most such endeavors, the listening process was limited in terms of outreach and depth. The TJRC cannot claim that every question asked of community members during the listening process sessions was fully and adequately answered. Moreover, there were numerous logistical problems to overcome. On occasion, the coordinators and the listening process facilitation teams were unable to contact some of the persons identified to participate in the listening process sessions, or some participants could not attend the sessions due to conflicting schedules, while others refused to take part due to a fear of reprisal. Inevitably, therefore, the listening process was not able to include some members of the communities who may have had important information or insights to share. Another element to be taken into consideration concerns the fact that the findings were elicited only from conflictaffected communities, a majority of which were Bangsamoro and indigenous.

Another limitation was the fact the TJRC had only one year to realize its consultations and to finalize its report from the time of its public launch in October 2014. As a consequence, the time plan for the TJRC foresaw only three months to realize the community-based phase of the listening process. Each listening process team had to conduct at least 18 listening process sessions within this three-month period. Another month was needed for the analysis and writing. In reality, some teams took more than three months to complete their work, largely because of emerging security concerns on the ground. Indeed, some meetings had to be cancelled at the last moment and postponed indefinitely due to the resurgence of *rido* fighting in the villages.

Given these circumstances, it was clear to the TJRC that, for the purpose of this report, the testimonies given and the information gathered could not be evaluated in accordance with judicial standards. Instead, it was decided that the standard should be the consistency of the testimonies and information with published academic reports and scientific field research from reliable sources. Another factor taken into account as a criterion of veracity was when statements about events or circumstances were repeated by participants in different listening process sessions. The fact that communities in different parts of Mindanao shared similar experiences of abuse and exclusion independently of one another was one of the remarkable findings of the listening process.

2.6. Realizing the Listening Process Report

The listening process involved "active listening" sessions with members of affected communities, during which listening process facilitators engaged in a structured dialogue with a group of around 10 to 15 persons, chosen according to criteria of ethnic origin, professional and cultural background, religious affinity,

³⁸ In the course of its consultation process, the TJRC received concrete information about specific events, which can be categorized as serious violations of international human rights law (IHRL) and international humanitarian law (IHL). Some of this information is based on survivor testimony; other information is stored in archives and refers to atrocities that were committed several decades ago. In some cases, the testimonies described violent incidents that remain unknown to the public to this day. The majority of witness statements and records are backed up by previous reports, but some of them would require further investigation for confirmation. The TJRC addressed this issue and formulated recommendations in this regard in its March 2016 report.

and geographical location, in order to achieve the widest possible diversity among the participants along with balanced gender and age representation.

The questionnaire prepared for the listening process contained questions relating to each area of the TJRC mandate, i.e., legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. It also asked opinions about healing and reconciliation. The listening process sessions were structured in order to allow focused discussions, during which the participants could formulate their own narratives and reflections in response to the questionnaire. The questions themselves were elaborated to capture collective narratives, reflecting the experience and understanding of the different communities participating in the listening process, rather than testimonies of individual members. Although the participants did, of course, provide testimonies as individuals, care was taken to ensure that they reflected the experience of the community as a whole. The listening process facilitators were fluent in the languages spoken by the communities they worked with and were instructed to capture the participants' points of view as closely as possible in their own words, including figures of speech, images, and even slang language.

After each Listening Process (LP) session, the listening process facilitators would transfer the responses onto a matrix designated as a Data Capture Form (DCF). A small team of desk researchers was then tasked to review the DCF data, to identify recurring issues and common themes, and to group them according to the elements of the TJRC mandate. During some listening process sessions, the same incident might have been retold several times in different ways. In such cases, facilitators were requested to introduce the different narratives under the same heading in the DCFs.

The findings of this report are based on the material collated in the Data Capture Forms. Whenever possible, the source of the participant statements quoted in the text is cited in the footnotes according to the location (barangay, municipality, province) and the date of the listening process session in which the statement was made. In many cases, the DCFs only summarized the statements of the participants and therefore only a summary of the opinions



expressed could be included. In other cases, reference is made to participant narratives without citing the source in the DCFs.³⁹

The Listening Process Report is organized according to the elements of the TJRC mandate. Statements and narratives have been grouped in chapters and sub-chapters with a view to sharing the self-understanding, the specific language used, and the world of experience, as expressed by the members of the communities. Some striking or particularly relevant narrative statements were chosen to highlight specific issues and have been presented in the report in the form of text boxes or in tabular form.

Each event and situation mentioned by the participants and included in this report has been verified as far as possible based on existing sources or crosschecked with the results of the other elements of the TJRC consultation process: The TJRC study groups reports, the key informant interviews, and the TJRC Dealing with the Past (DWP) assessment.⁴⁰

As a final step in the preparation of the report, the TJRC reviewed

 $^{^{\}rm 39}$ In some cases, there are also inconsistencies between the narrative cited in the DCF and the location and date given. Such cases are marked with an asterisk (*) in the footnote.

⁴⁰ With regard to the TJRC DWP assessment, see footnote 11 above.

the results of the listening process on the basis of the DWP framework and elaborated its own preliminary analysis. Once this was done and before writing the report, two separate "feedback" (or "validation") sessions were held with representatives of each community engaged in the listening process in attendance. The purpose of the sessions was two-fold. First of all, the TJRC wanted to verify whether the listening process had succeeded in correctly capturing the essence of the community narratives. Secondly, the TJRC wanted to present its own analysis of the listening process findings and its recommendations to the community representatives and receive their critical comments. The feedback sessions contributed a number of observations useful for the TJRC March 2016 report and provided an opportunity to engage in fruitful exchanges about the Dealing with the Past Framework and the TJRC recommendations.

As mentioned above, the TJRC took the findings of the listening process into account when it formulated the two sets of recommendations contained in its March 2016 report. On the one hand, the TJRC recommended the creation of a National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB). In addition, the TJRC also enumerated some 90 separate recommendations based to a considerable extent on concrete proposals made by listening process participants. The concluding remarks presented under the rubric of the "Bangsamoro opportunity" are an attempt to shed further light on the feasibility of TJRC recommendations based on the insights gained during the listening process.

THE TJRC LISTENING REPORT PROCESS NARRATIVES AND INSIGHTS





We believe that the Philippine educational system has been designed to mislead the young generation of the Bangsamoro about [its] history.... The stories of our heroes are not found in Philippine history books. Nor can you find images of Moro heroes printed on any Philippine currency.... Our traditions and cultural practices have been replaced by Christmas, Valentines' Day, and other celebrations introduced by the settler communities.... As a result, there has been a diminution of the language used by different Bangsamoro [ethnolinguistic] groups....

Male participant, TJRC listening process session in Barangay Crossing Simuay, Sultan Kudarat, Maguindanao on 20 April 2015 Having a distinctive identity can be a source of pride, especially among a people who regard themselves as descendants of valiant ancestors who defied a succession of foreign aggressors and fought heroically for self-determination. These ancestors were men and women who preferred to resist and die rather than to accept submission to what the Magindanawns called "gubilno a sarewang a tau" (government of the strangers).

Ironically, the consciousness and assertion of their distinctive identities as ethnic groups rooted in the land they live on is the reason why the Bangsamoro and indigenous peoples in Mindanao have been driven to the margins of the Philippine polity. Generations of Bangsamoro and indigenous peoples, notwithstanding claims that they constituted independent nations and proto-nation-states, were forced to adopt a "Filipino national identity" imposed through an educational system that promotes homogeneity and discourages diversity to the extent that their long and enduring history was either ignored or actively disparaged.

This chapter details the results of the listening process, as shared by community members. It follows the design of the listening process questionnaire, in so far as it presents the main findings in four groups in accordance with the mandate of the TJRC.

3.1. Legitimate Grievances – Scope and Effects

Listening process participants of different ethnicities articulated the issue of legitimate grievances in their respective languages and idioms. Magindanawn participants understood legitimate grievances as "lat a ginawa" (broken self), an idiomatic phrase referring to the resentment felt in response to hurtful or harmful acts. 41 Meranaw-speaking participants referred to the idea of legitimate grievances as "sesekaten a kabnar" (claiming rights), while the Yakan regard it as "peddi atey" (hurtful to a person's heart) or "sukkal pangateyan" (something hurtful done against one's heart). The Tausug use a similar phrase "sakit pangatayan" (grieving heart) or "karukkaan sin pangatayan" (intense grieving

⁴¹ The full word in Magindanawn is "*migkalat*" (destroyed or broken). Magindanawns often abbreviate words not only for parsimonious reasons, but also to create a more "poetic" version of the original word.



of the heart). For the Teduray, a legitimate grievance is "ketete fedew" (bad feeling), emanating from the discriminatory experience of being looked down upon as "illiterate", "ignorant", etc. The Sama people understand it as "maktan kabilahi-an" or "maktan ni angan-angan," i.e., a legitimate aspiration that was negated by unjust acts committed against them.

Common to these diverse idiomatic expressions is the association of legitimate grievances with painful acts that are harmful to a vital human organ, the heart. As such, the similarity of terms used suggests that the understanding of legitimate grievances is culturally linked, underscoring the importance of the integrity of the body (in this case, the heart) as a metaphor of the integrity of a person, an understanding shared by the Bangsamoro and indigenous peoples. This explains the deep-seated and intense emotional impact of the grievances enumerated by participants

during the listening process sessions. Moreover, the raw pain associated with these deep sentiments of injustice also revealed a tragic sense of brokenness, stemming from the shattering experience of the denial of their integrity, dignity, and distinctive identities as peoples.

Christian participants from settler communities in Northern and Central Mindanao conveyed their grievances as longtime residents who consider Mindanao as their home. As such, they also felt caught up in the intricate web of armed violence, and their statements resonated with the Bangsamoro and indigenous peoples' sense of grievances. The Christian participants formulated their grievances in the culturally-anchored, emotional terms of their ethnolinguistic origins. Visayan-speaking Christians described their experience of grievance in terms of "kaligutgot" or inner sentiment of wrath, while the Tagalog speakers expressed their sense of grievance as "hinanakit" or resentment.⁴²

Prejudice and discrimination

Overall, the strong sense of resentment expressed by the Bangsamoro and indigenous peoples in the listening process sessions stemmed from their experience of prejudicial and discriminatory treatment in their daily affairs by the majority Filipino population and by Filipino government institutions. Prejudice and discrimination against Muslims is a widespread phenomenon that inds expression in derogatory terms such as "muklo," "moros," and "magnanakaw" or "mamamatay-tao." Underpinning these terms are acts of exclusion from mainstream Philippine political, socio-

⁴² Facilitators used the Cebuano-Visayan term in communities where the lingua franca is Cebuano-Visayan (SoCSKSarGen, Central Mindanao areas, Zamboanga peninsula, Davao areas) and Tagalog.

⁴³ "Muklo" is a derogatory term of llonggo origin used to ridicule Muslims. "Moros" (plural form) is still being used in a derisive way, insinuating that the Bangsamoro are "savages" and "uncivilized" or "uneducated" and "ignorant" persons. "Magnanakaw" (thieves) and "mamamatay-tao" (murderers) are also words used to describe Muslims in Mindanao. These two terms suggest stereotypical images of Muslims as traditionally prone to violence and who are now the present-day terrorists, bandits, and kidnappers, or simply the dregs of the earth (Cagoco-Guiam, Rufa. 2000).

economic, and cultural affairs.44

Meranaw participants in a listening process session in Iligan City, Lanao del Norte explained how they experienced discrimination and ridicule after passing a professional licensure examination.⁴⁵ One of the participants said that he had been barred from joining a ceremony of oath taking for wearing a tunic usually worn by Muslim religious functionaries (*ulama or assatidz*).⁴⁶ Other participants complained that when Meranaw Muslims transact business at government offices in Christian dominated areas like Iligan City they are searched more thoroughly than Christians. Moreover, Muslims are commonly labeled as "terrorists" and "thieves" on the basis of their religious affiliation. When a Muslim is accused of a crime, the term "Muslim" is appended as an identity marker of the suspect, but this is not the case for Christians. Participants in the listening process session in Aleosan, Cotabato lamented the fact that some Christian families instill a negative image of Muslims when raising their children. They noted that Christian parents often discipline their children by threatening to send them to the "Moros," a pejorative reference to the Bangsamoro as "monsters" who frighten people.47

Visayan-speaking participants in listening process sessions in Iligan City and in Linamon expressed grievances about

⁴⁴ The two terms, "Muslim" and "Bangsamoro," while often used interchangeably in reference to the native population of Mindanao, are not one and the same. "Muslim" is a religious identity, while "Bangsamoro" serves as the political identity of a people who are indigenous to Mindanao. Significantly, a majority of the Bangsamoro never submitted to Spanish rule and, following the Spanish-American war, were forced to accept American colonial administration and later became part of the Philippines. "Bangsamoro" is also the name proposed for the new autonomous region, if and when a basic law will be passed by the Philippine Congress and ratified by qualified voters in the future Bangsamoro territory.

⁴⁵ Listening process session in Purok 16, Kiwalan, Iligan City, Lanao del Norte on 17 April 2015.

⁴⁶ "*Ulama*" is the plural form of an Arabic term for "council of learned men in Islam" and is used to designate persons as "scholars." The term "*assatidz*" is the plural form of "*ustadz*" (teacher).

⁴⁷ Listening process session in Barangay San Mateo, Aleosan, Cotabato on 10 April 2015.

Meranaw acts of "selective" justice in the Lanao provinces.⁴⁸ According to them, some traditional Meranaw sultans and datus justified crimes committed by fellow Meranaw against Christians.⁴⁹

Apart from any resentment that Christian settlers might feel based on past grievances against the Bangsamoro, the prevailing perception among Christian communities is that the Bangsamoro people are "troublemakers" and "terrorists". This has proven to be an enduring barrier from the perspective of the Christians to social harmony between the two communities. Indeed, Christian participants in an Iligan City listening process session expressed difficulty in accepting Muslims as neighbors over fears of the latter bringing "trouble" into their community. This sentiment has been reinforced over the years through the association in the public sphere of Muslims with criminal elements, bandits, kidnappers, and non-state armed actors like the Abu Sayyaf Group.⁵⁰

The negative perception of Muslims expressed as a grievance in the listening process sessions is reflected in a public opinion survey of Muslim-Christian relations that show Christian respondents as more likely to express misgivings at having a Muslim as a neighbor, let alone as a "kasambahay" (domestic helper).⁵¹ In contrast, Muslim respondents tended to be more open to the idea of living together with Christians in common neighborhoods or even in one household. Other opinion studies point out that Christians in

⁴⁸ The term "Visayan" refers to Cebuano-Visayan-speaking ethnic groups from the provinces of Cebu, Bohol, Negros Oriental in the Visayas, from some parts of Leyte facing the Cebu side, as well as from Masbate. In Mindanao, however, the term "Visayan" is used as a derogatory term by Muslims to refer to Christian settlers. In this regard, it has a similar pejorative meaning among Meranaws and Magindanawns as the use of the term "muklo" for Muslims among Cebuano-Visayans and other Christian settler groups.

Listening process sessions in Barangay Abuno, Iligan City on 18 March 2015 and in Barangay Napo, Linamon, Lanao del Norte on 19 March 2105.

- ⁴⁹ Listening process sessions in Barangay Abuno, Iligan City on 18 March 2015 and in Barangay Napo, Linamon, Lanao del Norte on 19 March 2105.
- ⁵⁰ Listening process session in Barangay Napo, Linamon, Lanao del Norte on 19 March 2015.
- ⁵¹ See the results of Pulse Asia Ulat ng Bayan March 2005 survey, as cited in: Philippine Human Devel-opment Report. 2005. "Measuring the Bias against Muslims." Appendix 1.1. Human Development Net-work. Pp. 53-58.

general are averse to having Muslims as their local leaders, while Muslims do not really care which religion local leaders profess, as long as they enjoy the freedom to practice their own religion.⁵²

Indigenous people participants also shared their sense of "ketete fedaw" (bad feeling) about experiences of prejudice at the hands of some Christians and Moros, for example when they are called disrespectful names, like the pejorative term "baboy" ('pig'). ⁵³ In all the 18 listening process sessions conducted in communities of indigenous peoples, the participants invariably expressed grief at how some Christian settlers and Moros disparaged them to the extent that they felt, in the words of one participant, "not regarded (as) human beings." ⁵⁴

In response to the bitter experience of prejudice and discrimination, many indigenous peoples have moved to more remote abodes deep in the forests or high in the mountains, which has exacerbated their marginalization. Indigenous communities in mountainous areas have no access to basic social services, such as education and health, which, in turn, perpetuates high levels of illiteracy and vulnerability to preventable diseases, resulting in a low life expectancy. Few economic activities exist in many of the remote communities, encouraging migration by forcing young men and women to seek wage-based work in urban centers.⁵⁵

- ⁵² Tolibas-Nunez, Rosalita and Emil Bolongaita. 1999. Roots of Conflict: Muslims, Christians and the Mindanao Struggle. Makati City: Asian Institute of Management.
- ⁵³ Listening process session in Barangay Poblacion 5, Midsayap, Cotabato on 10 April 2015.
- ⁵⁴ Quote taken from the DCF of the listening process session with members of the Teduray community in Barangay Timanan, South Upi, Maguindanao on 21 March 2015. Overlapping claims on lands and ances-tral domain between the Teduray and the Magindanawn peoples have led to tensions between the two groups:
- ⁵⁵ Many indigenous peoples have low literacy and educational levels, owing to their lack of access to quality education. As a result, they are vulnerable to predatory recruiters, who offer them jobs in big cities like Koronadal and General Santos. In fact, many of the young T'boli or Blaan women who are recruited this way end up in brothels or on the city streets as commercial sex workers. (See: Cagoco-Guiam, Rufa et al. 2016. "Children in Harmful Work in the Philippines: A Child Rights Situational Analysis", an unpublished study on the pathways of child labor, commissioned by Save the Children Philippines Program.)



Socio-economic and political exclusion

Bangsamoro and indigenous peoples often face socio-economic and political constraints not experienced by the Christian majority. Listening process sessions held in Zamboanga del Sur, in Lanao del Sur, in South Cotabato, Sultan Kudarat, Sarangani and General Santos City (SoCSKSarGen), and in the MILF communities revealed a pattern of exclusion from development opportunities among communities of Bangsamoro and indigenous peoples. In these separate listening process sessions, participants shared their perception that public resources had been deliberately withheld from their communities, because government authorities considered them insignificant constituents of the Philippines. The participants believed that years of negative profiling of Bangsamoro and indigenous people as "bad elements," "rebels," and "bandits" had led to manifold forms and experiences of social and economic exclusion, as a result of which their communities were routinely "bypassed" when it came to development ventures and government resource distribution.56

⁵⁶ Listening process session in Barangay Poblacion, Matungao, Lanao del Norte on 20 March 2015.



Social exclusion happens when a State bestows more favorable access to public resources and development engagements on some groups while neglecting others, rendering those who were excluded disadvantaged and vulnerable in terms of health, education, and social protection.⁵⁷ Many listening process participants expressed the view that the Philippine government excluded Bangsamoro and indigenous peoples from enjoying the same social rights and protection provided to majority Filipino ethnic groups through exclusionary legislation and flawed policy decisions.

Meranaw members of the Moro National Liberation Front (MNLF) in Linamon, Lanao del Norte recounted their exclusion from a government housing project for families displaced by the "all-out war" in 2000. The group belatedly learned that the government had listed the displaced residents of a predominantly Christian barangay as the only beneficiaries qualified to receive housing

⁵⁷ Loury, Glenn C. "Social Exclusion and Ethnic Groups: The Challenge to Economics". Pp. 225-52. In: Annual World Bank Conference on Development Economics 1999. 2000. Washington, DC: International Bank for Reconstruction and Development.

assistance, effectively excluding them, although they had also been displaced and were in need of assistance.⁵⁸

Several listening process participants argued that government authorities extend "preferential treatment" to majority Christian communities, making it more difficult for Bangsamoro and indigenous peoples to access basic social services and economic development opportunities. Participants invariably articulated their sense of social exclusion in emotionally strong terms, as the following quotes demonstrate:

We, indigenous peoples...are [often] the last ones to receive [benefits from] the government. [Even] our LGU leaders are treated as third-class citizens.⁵⁹

We have no access to [sustainable] livelihood and most especially no scholarships.... That is why our children marry early.... We are the last priority, if indeed the government helps us at all.⁶⁰

There is deliberate neglect of Moro communities. Even with [regard to] government road construction projects: The good roads are [constructed] in Christian areas, but Moro areas have bad roads...⁶¹

As Muslims, we feel that we don't have any rights.... We are perceived as "rebels," as "murderers...."62

Aside from being called *muklo*, we are also perceived as [people with] tails....⁶³

- ⁵⁸ Listening process session in Barangay Napo, Linamon, Lanao del Norte on 19 March 2015.
- ⁵⁹ Listening process session in Barangay Poblacion, Esperanza, Sultan Kudarat on 19 March 2015.*
- $^{\rm 60}$ Listening process session in Barangay Kuya, South Upi, Maguindanao on 21 March 2015.*
- ⁶¹ Statement by a male participant during the listening process session conducted in Barangay Timanan, South Upi, Maguindanao on 22 March 2015.
- ⁶² Statement by a female participant during the listening process session conducted in Barangay Bual, Isulan, Sultan Kudarat on 18 April 2015.
- ⁶³ Statement by a male participant during the listening process session in Lebak, Sultan Kudarat on 19 April 2015.

The lack of access to public goods and services, even to the extent of their exclusion, has had serious negative consequences on the welfare of indigenous peoples, especially to those dwelling in the highlands. Some participants expressed a sense of low self-esteem or even a self-deprecating attitude of inferiority, reflecting a general sense of hopelessness and powerlessness among many indigenous peoples. Members of the younger generation often do not openly present themselves as indigenous for fear of being ridiculed or humiliated in public. A female indigenous participant captured this sentiment by saying:

In most cases, our young people do not want to be identified as a member of an indigenous tribe, because they are [afraid of being] bullied by both settlers and Moros and referred to as "taong bundok" (mountain person) and "ignorante" (ignorant).64

Yakan-speaking participants in the Basilan listening process sessions explained how they as a people have become a "minority within a minority" on their native island, an experience which they regard as a primary source of their grievances or "sukkal pangateyan" (deep sense of pain). The participants claimed that the rise of Tausug politicians and business persons, who captured various levels of political power and secured vast land holdings in Basilan, had set off the process of their marginalization and social exclusion as an ethnic group. ⁶⁵ Furthermore, Yakan participants lamented the pain of being labeled as "nonbelievers" by fellow Muslims who refused to recognize them as part of the Islamic ummah (universal community of Islamic believers). ⁶⁶

Resonating with the Yakan sentiments of social exclusion, Sama-speaking participants in Tawi-Tawi also evoked concerns over the growing dominance of Tausug politicians in traditional Sama enclaves and Tausug influence in their affairs.⁶⁷ For the

⁶⁴ Statement by a female participant during the listening process session in Barangay Ala, Esperanza, Sultan Kudarat on 19 May 2015.*

⁶⁵ Opinions expressed during listening process sessions conducted in the municipalities of Lamitan City, Isabela, Tipo-Tipo, and Akbar in Basilan from 15 March – 10 April 2015.

⁶⁶ Culled from the collated responses of participants in listening process sessions in Lamitan City and Tipo-Tipo, Basilan from 15 March – 10 April 2015.

⁶⁷ Details of this issue are discussed in the following section on historical injustice.

Sama participants, this unfavorable shift in power was the result of the introduction of a highly centralized and bureaucratic national system of governance that had undermined their ancestral form of rule, known as the kapanglimahan, and alienated traditional Sama leaders from their own people.

Listening process participants from various MILF communities in Central Mindanao pointed to the stark "development gap" between areas populated by Christian settlers and by Bangsamoro and indigenous peoples as a striking illustration of how minority communities were excluded from the tapestry of the Filipino society. Eurthermore, the MILF participants stated that several private commercial establishments and non-profit institutions in Northern and Central Mindanao had adopted exclusivist hiring policies that are discriminatory to Bangsamoro and indigenous peoples. Employers justify their hiring policies on the premise that the educational qualifications and acquired skills of Bangsamoro and indigenous job applicants are inferior compared to their Christian counterparts. Consequently, Muslim and indigenous applicants are most often rejected in favor of Christians.

The economic marginalization of Bangsamoro enclaves across Mindanao has led to the impoverishment of its communities, which in turn has had a dramatic effect on the demographic landscape. Unable to find reliable income in their own conflict-affected communities, many of the younger Bangsamoro men and women have sought work elsewhere, including overseas, precipitating the migration of its more productive labor force. Many female Moro migrant workers have ended up as domestic workers abroad exposed to abuses and exploitation by unscrupulous foreign employers and predatory migration officers. In some cases, entire families have abandoned their war-torn and impoverished communities, migrating instead to places they deemed "safer" and with better livelihood opportunities.⁷⁰

⁶⁸ This was also a topic of discussion in the listening process session conducted in Barangay Tipo-Tipo Proper, Tipo-Tipo, Basilan on 19 April 2015.

⁶⁹ This opinion was expressed in a majority of the listening process sessions, notably those conducted in the provinces of Basilan and South Cotabato and in General Santos City and Zamboanga City.

⁷⁰ According to listening process participants in Tawi-Tawi, this was the reason why many Sama Dilaut families migrated to Sabah over the years.

Religious intolerance and disrespect

Listening process participants from various regions cited religious intolerance and disrespect toward Islam as a particularly painful source of grievance. The participants implicated the military and the police in several incidents of gross contempt toward Muslim belief and practice during Martial Law. Some participants in Basilan recounted that military officers had brought in pigs inside a mosque.⁷¹ while others in Zamboanga Sibugay tearfully narrated an episode when soldiers forced Moro children to cook and eat pork.72 Elderly participants in a listening process session in Sarangani Province recalled how soldiers had desecrated the Qur'an inside their village mosque. They claimed that, in 1975, members of the 15th Infantry Battalion and Barangay Self-Defense Units (BSDUs) had occupied the village mosque and tore up pages of the Qur'an, which the troopers then used as toilet paper. 73 Moreover, several listening process session participants shared the view that the government had actually ordered the military to annihilate Muslims. an assumption that was seemingly corroborated by a string of Moro civilian "massacres" in the 1970s and the 1980s.74

Influence of organized crime

Throughout the listening process, participants raised alarm over the heightening influence of organized crime upon government in the Bangsamoro areas. Participants from communities in Tawi-Tawi and Lanao del Sur claimed that criminal elements managed to gain leverage over parts of the government, exercising more real power than local executives. For other participants,

⁷¹ Listening process session in Barangay Maganda, Lamitan City, Basilan on 22 March 2015.* Some of the participants in the Lamitan listening process session were residents of Mohammad Ajul municipality.

⁷² Listening process session in Barangay Bangkerohan, Ipil, Zamboanga Sibugay on 15 April 2015.*

 $^{^{73}}$ Listening process session in Barangay Pananag, Maasim, Sarangani on 16 April 2015.

⁷⁴ A number of participants revealed that they themselves had experienced abuse at the hands of the military during Martial Law. For a more detailed description of such abuse, see the section on human rights violations.

the reality of weak governance in the Bangsamoro was something painful for them to accept. Many local government officials were powerless to contain the rising levels of criminality associated with the proliferation of loose firearms and illicit drugs, because the rule of law and the practice of law enforcement have been seriously compromised.

Plight of the Sama Dilaut

Sama Dilaut participants from the island municipalities of Tawi-Tawi province maintained that they are being systematically deprived of their identity as a nomadic sea people. 75 They lamented the fact that the Malaysian authorities now prevent them from crossing the watery expanse that marks the modern border between Malaysia and the Philippines, as they and their ancestors had done since ancient times. 76 The participants stressed the importance of unrestricted access to Sabah, as many of their ancestors lie buried along its coast, whose grave sites they regularly visit to fulfill a time-honored tradition of connecting with the ancestral spiritual world. Since the 2013 Sabah crisis, however, they have been prevented by Malaysian authorities from fulfilling this obligation on the grounds that they are not in possession of government-issued travel documents.⁷⁷ Sama Dilaut caught traveling across their ancestral waters in defiance of the Malaysian government restrictions have been thrown into Sabah prisons. 78 They cited one case in particular, the

⁷⁵ Listening process sessions conducted among Sama Dilaut in Barangay Bangkaw, Layohan, in Barangay Sanga-Sanga, Bongao, and in Barangay Bakong, Simunul, Tawi-Tawi on 20 - 21 March 2015.

⁷⁶ Since time immemorial, the Sama Dilaut have lived and sustained a seafaring way of life in areas straddling the coastlines, islands, and waters of the Sulu Archipelago in the Southern Philippines, the eastern Malaysian state of Sabah, and Indonesia's Kalimantan and Celebes regions. As a sea-faring people, they consider the seas as their dwelling area, while the lands serve as "mooring grounds" and sites for ancestral graveyards.

⁷⁷Travel restrictions among the Sama intensified immediately after the 2013 attempt by elements of the Sulu Sultanate Royal Forces to wrest control of a part of Sabah, which they believe is part of the Sulu Sultanate. See: Poling, Gregory, Phoebe DePadua, and Jennifer Frentasia. "The Royal Army of Sulu In-vades Malaysia." Center for Strategic and International Studies. 8 March 2013. Available at: http://csis.org/publication/royal-army-sulu-invades-malaysia (accessed on 4 July 2015).

⁷⁸ These and similar narratives were repeated in all of the listening process sessions conducted in Tawi-Tawi islands, where the majority of participants are Sama Dilaut.



example of Sama Dilaut seafarers from the Belatan islands of Tawi-Tawi, who were arrested by Sabah police for crossing the Malaysian – Philippine border. The experience embodies the Sama sentiments of "maktan kabilahi-an" or "maktan ni angan-angan," a legitimate aspiration thwarted by Philippine and Malaysian authorities. Sama participants regard their current situation as a direct consequence of the failure by the Philippine government to pursue the Sulu Sultanate's claims with respect to Sabah.

Other Sama participants argued that the Philippine government had supplanted their ancestral form of government, known as the *kapanglimahan*, with a centralized, patron-client-based bureaucracy that has undermined the legitimacy of their traditional leaders and created a political class which is alien to the local population. The participants pointed to the growing hegemony of well-connected Tausug politicians and Visayan migrants to Tawi-Tawi. One of the participants captured these sentiments as follows:

⁷⁹ Listening process session in Barangay Obol, Simunul, Tawi-Tawi on 06 April 2015.

...Simunul people and other [indigenous] inhabitants of Tawi-Tawi have become marginalized socially and politically. We are being ruled by migrants to our lands. Tausugs and Visayans occupy most of the positions of authority. They have not only encroached into every available [political and social] space, but [they] have also monopolized the local economy....⁸⁰

Finally, participants of the listening process in a number of different sites decried what they termed as the "illegal annexation of the Bangsamoro homeland to the Philippine territory" by the American colonial authorities.⁸¹ In their view, this was a both a legitimate grievance and a historical injustice.

3.1.1. Gender Dimensions of Legitimate Grievances

Decades of armed conflict have not only resulted in the displacement, impoverishment and social and political marginalization of Bangsamoro and indigenous communities, but have also radically transformed traditional gender roles and identities within those communities themselves. The description of the impact of the conflict on the understanding of gender presented below is based on examples that were framed as legitimate grievances during listening process sessions in Mindanao and in the Sulu archipelago.

The role of men as livelihood providers has suffered under the stress of chronic poverty. The fact that they are unable to provide for their families due to repeated experiences of forced displacement weighs heavily on them. Young men, in particular, are burdened with expectations associated with the predominant masculine role model of the warrior, i.e., that they should leave their families and join the armed struggle. Furthermore, because of stereotyped "profiling," young Moro men are often perceived as

⁸⁰ Listening process session in Barangay Bakong, Simunul, Tawi-Tawi on 03 April 2015.

⁸¹ This sentiment was expressed in these words during the listening process session conducted in Barangay Laguilayan, Isulan, Sultan Kudarat on 24 March 2015. Similar complaints concerning the "illegal annexation of the Bangsamoro homeland" were voiced during listening process sessions conducted in various sites in Maguindanao and in Lanao del Norte.

"trouble-makers" or even as "terrorists" and encounter difficulties in finding jobs, accessing higher education, and pursuing other opportunities.

Moro women are also subjected to specific forms of discrimination. Participants described how some female students, wearing a hijab or a niqab, were barred from joining their classes at a nursing school college. The same restrictions prevented female Muslim students from attending class at school. Because of the listening process narrated how some Christian-owned commercial enterprises restricted their access to certain parts of the establishment, while others blamed the rejection of their loan applications on account of their being Muslims. Some Moro women, who stopped wearing hijab because of discrimination, expressed fears about gradually losing their identity.

Women also carry the burden of forced displacement due to war-related events. They are forced to head single parent households when their husbands leave to look for work elsewhere or join the armed struggle. In such situations, women are "left behind" to care for their children and provide support for their families. In the words of one woman participant during a listening process session:

We live in poverty. When [our] husbands joined the revolution, the women were left [behind] to tend the farms. Some of us were widowed, because our husbands were martyred. Only the wives were left to take care of the family. We could not ask support from the government, because they [would] know that our husbands were MILF members. The government will not help us.⁸⁴

With respect to the grievance of poverty, a male participant in a listening process session spoke of an image that he once saw and could never forget: Moro women and children, during harvest

⁸² Listening process session with women participants in General Santos City on 21 March 2015.

 $^{^{\}rm 83}$ Listening process session in Barangay Guiling, Alamada, Cotabato on 9 April 2015.*

⁸⁴ Listening process session in Barangay Bayabao, Butig, Lanao del Sur on 29 April 2015.

time, picking up pieces of palay (rice) that fell to the ground, so they would have rice to pound and feed the family.⁸⁵

For Moro women, poverty is attributable to a lack of education and livelihood, a situation which has worsened over the years of protracted conflict. In this regard, the frequent evacuation of the Sama living on Simunul island is a case in point. Conflict-related displacement has affected the traditional livelihood of Simunul women, who have been forced to seek work elsewhere. In the case of indigenous women, their parents' inability to send them to school has led many of them to seek employment in cities as domestic workers. Additionally, young women were denied education, because their parents were afraid that if they received formal schooling, they would end up either marrying Christians or would convert to Christianity.

Gender is also an issue in connection with horizontal conflicts. Men caught in the deadly cycle of *rido* violence are often compelled to restrict their movements to their own small communities and thus have limited access to livelihood opportunities. This contravenes the culturally defined role of men as the principal family breadwinners in Bangsamoro society. Among the Meranaw, the Tausug, and the Magindanawn, such a situation is an affront to their "*maratabat*" or honor, for which a man is publicly adjudged as someone who has "lost face" and, by extension, his sense of pride and integrity. ⁸⁹ Others affected by *rido* move away from their villages for reasons of safety, leaving their farm fields unutilized and unproductive.

⁸⁵ Listening process session in Barangay Poblacion, Kabacan, Cotabato on 8 April 2015

⁸⁶ Simunul women are known to be skilled in traditions of pastry making, pottery, and embroidery. Instead of practicing these traditional crafts, however, difficult economic circumstances compel young Sama women to seek work abroad, leaving their cultural heritage under threat of being forgotten.

⁸⁷ Listening process session in Barangay Nuro, Upi, Maguindanao on 30 May 2015.

⁸⁸ Listening process session in the municipality of Jolo, Sulu on 9 August 2015.

⁸⁹ See Cagoco-Guiam, Rufa. 2013. Gender and livelihoods among internally displaced communities: The Case of Mindanao. Washington, DC: The Brookings Institute and the London School of Economics Pro-ject on Internal Displacement. Available at: http://www.brookings.edu/~/media/research/files/reports/2013/07/gender-livelihoods-idps-philippines/gender-and-livelihoods-among-idps-in-mindanao-philippines-july-2013.pdf (accessed on 4 Au-gust 2016).

Many are reluctant to return even after years because it could "rekindle old grudges and hatred" spawned by the feuds. 90 In some cases, youths caught up in rido are unable to attend school, leaving them without proper education. 91

Other examples of the shift in gender roles in conflict-affected communities concern the effects of migration, in particular its impact on cultural identity. Participants in Tawi-Tawi recounted that many Bangsamoro took the risk of seeking work in Sabah despite Malaysian restrictions against non-citizens. Left behind, their wives assumed the role of single parents, providing for their families under extremely difficult financial conditions. Economic circumstances have also compelled young Sama women to seek work abroad. The Sama women who return from work overseas prefer residing in Zamboanga City, rather than returning to their troubled and impoverished villages in Simunul. Consequently, these migratory movements have emerged as a factor in the alienation of the Sama from their ancestral land and waters, resulting in a loss of identity as a people.⁹²

3.2. Historical Injustice – Scope and Effects

The shared experience of prejudice, discrimination, exclusion, and intolerance that underpins the grievances expressed by the Bangsamoro and indigenous peoples in terms of being "hurt" and "broken" has historical roots. The sense of pain and brokenness has cut deeply into their historical consciousness as peoples whose basic rights to pursue their own way of life and livelihood have been unduly infringed upon despite the guarantees of international conventions, such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights, signed and ratified by the Philippine government. These breaches, representing a blatant disregard for their welfare, reveal the extent to which the national government and the broader Filipino community at large have failed to recognize

⁹⁰ Listening process session with women participants in Barangay Nalil, Bongao, Tawi-Tawi on 27 March 2015.

⁹¹ Dwyer, Leslie and Rufa Cagoco-Guiam. 2011. Gender and Conflict in Mindanao. Makati City: The Asia Foundation.

⁹² Listening process session in Barangay Obol, Simunul, Tawi-Tawi on 6 April 2015.



and acknowledge the Bangsamoro and indigenous as distinct peoples with their own social, political, and cultural rights and identities. Yet, while the findings of the listening process are critical of national policy in this regard, they also highlight the refusal of the Bangsamoro and indigenous to submit to injustice, whether in the form of colonial rule or postcolonial repression.

Historical injustice, although foreign to local idioms as a legal concept, finds expression in the notions of "kasa'an ta masa" (something hurtful) among the Sama, "kedufang" or "kedusa" (something painful) to the Teduray, and "damipaginontolan ko miyanga iipos a masa" (something that was not observed or honored in the past) for the Meranaw. The poignant articulation of the term in the vocabulary of the Bangsamoro and other indigenous peoples attests to the impact of historical injustice in concrete terms on these people over generations.

Omission of historical narratives

In response to questions about historical injustice, most participants cited the omission of accounts in the national historical narrative

about the struggle of the Bangsamoro and indigenous peoples and their leaders against foreign invaders and colonizers. Some participants stated that, in the rare cases when the exploits of Bangsamoro and indigenous heroes were represented in popular media and literature, the narratives were distorted to portray them as villains and bandits. In fact, it is the depiction of the historical exploits of the Moros primarily in negative terms that has created a stereotypical image of the Moro people as undesirables.⁹³

Numerous examples of omission and the detrimental effect that it has had upon the self-awareness of the Bangsamoro and indigenous peoples were provided during the listening process. Magindanawn participants spoke about the heroic exploits of Sultan Kudarat, Datu Ali, and Datu Alamada (also known as Amai Buliok), who valiantly defended their homelands against the incursions of Spanish and American colonizers. Yet, these historical figures and their stories of resistance, like Bangsamoro history in general, are not well known, leaving many people from Maguindanao unaware of the contribution of their ancestors to the Bangsamoro struggle for self-determination.

A number of participants also drew attention to the lack of acknowledgment of Moro leaders who served as the first appointed mayors and governors in places, which are currently predominantly Christian, such as General Santos City, Glan, Alabel, and Sarangani Province. In the opinion of many of the participants, the omission, negation, and exclusion of Bangsamoro and indigenous peoples in the pantheon of Philippine patriotic heroes constitute a grave injustice to the Bangsamoro.⁹⁴

Participants of listening process sessions in Lanao del Sur lamented the fact that the courageous efforts of their ancestors, many of whom sacrificed their lives in the struggle for liberation, have largely been forgotten, ostensibly because their deeds were never recognized as an illustrious part of Philippine history.

⁹³ Based on information drawn from the collated responses of participants during the listening process sessions conducted by the MILF team and from the listening process sessions conducted in Lanao del Norte.

⁹⁴ Information culled from the DCFs of listening process sessions conducted in various communities in Maguindanao and Sultan Kudarat provinces from March to April 2015.

This has resulted in the disconnection of young Moros and indigenous peoples from their own history as a people, compounding their lack of identification with the Philippine historical narrative. Among their ancestors are Amai Pakpak and Datu Mamarinta, who are regarded as heroes who led the fight against colonial forces. Adding to the insult of omission is the injury of neglect. Local government officials have also failed to preserve the historical sites associated with Bangsamoro resistance, for instance by allowing the historic fort constructed by Amai Pakpakin Marawi City to deteriorate.

Participants attending the listening process sessions conducted in Sulu, Tawi-tawi, and Basilan deplored the dismissive labelling of Bangsamoro warriors, who attacked well-armed members of the colonial army with only their *kalis* (double-edged sword) and spiritual resolve as weapons, as "*juramentados*," a pejorative term in Spanish for "men who run amuck." In their view, the use of the word "*juramentado*" is an affront to the memory of those who sacrificed their lives according to the traditions of *parang sabil* (martyrdom). The continued use of this designation in history books is insult, in their view, and is in itself an example of historical injustice.

In their various statements, the participants made it clear that the recognition of the legacy of Bangsamoro resistance to foreign domination is an assertion of their distinctive historical identity. In their eyes, the denial of that history through omission, distortion, and neglect was a grave injustice to them and to their ancestors

The elimination of memory by renaming streets and places

The elimination of memory by replacing the traditional names of streets and places with the names of colonial masters, foreign invaders, and settler families was cited by many listening process participants as a particularly egregious form of historical injustice. This practice is known throughout Mindanao and, to a lesser extent, in the Sulu archipelago. For the Bangsamoro and

 $^{^{95}}$ Based on the collated responses of two separate listening process sessions in Marawi City, Lanao del Sur on 13 May 2015 and on 25 May 2015.

 $^{^{96}}$ Listening process session in Barangay Pindolonan, Marawi City, Lanao del Sur on 13 May 2015.

indigenous community members attending the listening process sessions, it was a practice that not only celebrated those who violently suppressed them and deceptively usurped their lands, but also robbed them of their history and identity as distinct peoples who have lived in the region from time immemorial. Such acts, in their opinion, were a consequence of the ascendancy of the settler population in Mindanao.

Numerous examples of renaming streets, places, and whole areas in Mindanao and in the Sulu archipelago were offered during different listening process sessions.

In listening process sessions held in General Santos City, participants shared crucial information about Zainal Abidin, a Magindanawn, who was the first mayor of Rajah Buayan municipality, a town that was named after a Muslim sovereign who once ruled the area. In 1954, the name of the municipality was changed from Rajah Buayan to General Santos in honor of General Paulino Santos, a Filipino officer in the American colonial army, who introduced Christian settlers from Central Philippines to the area in the 1930s. At present, there is no acknowledgment of Rajah Buayan as the first municipality in the region, nor of the role of Zainal Abidin as its mayor, in the official historical profile of the city. One of the older participants, who still remembered these events. described it as just one example of forgetting old Muslim names and leaders. In his words, it was an instance of "di wagib a tudtulan" (unjust history) or "kalaliman a tarsilan" (an archaic Magindanawn term for historical injustice).97

One particularly notorious example that emerged during the listening process was the renaming of a prominent Zamboanga City landmark as "Plaza Pershing" in honor of General John Pershing, the American military governor who led a bloody campaign against the Moro people in Mindanao. 98 In June 1913, as governor of the colonial Moro province, he authorized an assault on Tausug resistance forces in Sulu, resulting in the

⁹⁷ From an elderly male participant during the listening process session in General Santos City on 20 March 2015.*

⁹⁸ This example was mentioned frequently in the listening process sessions conducted in Sulu and Zam-boanga Sibugay.

slaughter of some 1,000 men, women, and children, who had taken refuge in the mountains and built fortifications in a volcanic crater, known as Bud Bagsak.⁹⁹

The renaming of Rajah Buayan as General Santos City, as mentioned above, is another such case. In the 1930s, the Philippine Commonwealth Government of President Manuel L. Quezon ordered General Paulino Santos to "pacify" the "wild" tribes of Moros (Magindanawn) and indigenous peoples (Blaan) in South Cotabato and its environs, in order to pave the way for the "peaceful" settlement of migrants from Luzon and the Visayas. Since then, these events and the achievement of General Santos have been commemorated in the annual foundation day celebration in General Santos City. As one elderly participant commented, "How can we participate in [the celebration], when it signaled the end of our ancestors' rule here?" 100

Text box 1: Renaming places in Mindanaothe practice of "stolen history"

The practice of substituting the names of Catholic saints or of Filipinos, who promoted the migration of settlers into the region, for place names that form part of the patrimony of the indigenous population in Mindanao was identified as a grave historical injustice by the participants of the listening process. Not only were their lands taken from them, but their history has been "stolen" as well. The original place names speak of the deep respect, with which indigenous peoples regard the land and waters that have sustained them for centuries. Generations of proud, unconquered, and self-governing peoples were raised on the lands that bore their names. With the arrival of the settlers—"sarewang a tau" (strangers)—these links with tradition and of veneration of the land and its ancestral inhabitants were set aside in favor of names that had no connection to the indigenous communities and localities.

Participants in the Koronadal City listening process session (20 May 2015) explained that the present name of the city is a "corrupted" form

⁹⁹ Listening process session in Talipao, Sulu on 20 March 2015.

¹⁰⁰ Listening process session with participants from different communities in Barangay Dadiangas East, General Santos City on 20 March 2015.

of its original designation, "Kolon Datal," a Blaan term for "grassland." They also pointed out that the names of their famous ancestors, Blaan and T'boli, are not included among the names of streets and barangays in the city. Instead, the main streets are named after (Christian) politicians and generals (e.g., Quezon Avenue, GenSan Drive, etc.). A minor road named after the renowned Moro politician, former Senator Salipada K. Pendatun, is the exception to the rule. The same is true elsewhere. Participants in the listening process session held in Polomolok, South Cotabato (18 May 2015) related that the purok (district) of Bulaong, the site of numerous bus terminals, is named in honor of a family of settlers.

Participants of listening process sessions in communities located in Central Mindanao also described cases in which traditional Magindanawn designations for ancestral lands had been replaced. During a listening process session held in Isulan, Sultan Kudarat (18 April 2015), they cited the example of the town of Esperanza, which was founded in an area which used to be known as "Dulawan." The province of Sultan Kudarat itself, they recalled, was established in an area formerly known as "Sagabyn." Other examples were brought to light in the listening process session conducted in Badak, Gen. S.K. Pendatun, Maguindanao (9 April 2015). The area, in which the town of President Elpidio Quirino was established, used to be called "Sambolawan," meaning "golden land." The barangay of Gansing in the municipality of Lambayong, Sultan Kudarat was renamed Villomin in honor of a settler. Participants during the listening process session conducted in Carmen, Cotabato (5 April 2015) claimed that this mountainous town used to be known as "Kalalaw," a Magindanawn term meaning "jar of water," but was renamed Carmen by the settler community.

Participants of the listening process session conducted in Tampakan, South Cotabato (21 May 2015) claimed that many towns in South Cotabato had been renamed, using terms familiar to the settler populations, especially the names of Catholic saints. The town of Guimit, for example, is now known as Sto. Nino and L'mbohong is now the municipality of Banga.

Participants of the listening session held in Hadji Panglima Tahil, Sulu (22 March 2015) identified a small islet, originally called Puh

Toung Toung, which is now the property of a former military official. The official allegedly seized the islet during Martial Law and renamed it after himself.

Participants in the listening process session conducted in Kabasalan, Zambuanga Sibugay (18 May 2015) claimed that areas known locally as Bakalan and Matigda were later renamed as the barangays of La Paz and Sto. Nino in the town of Alicia, while the municipality of Roseller T. Lim was formerly known as Surabay.

In Davao del Sur, the whole stretch of land that is now the municipality of Sta. Cruz used to be the domain of an indigenous group that adopted Islam—the Ka'agan (Kalagan). Accordingly, the region was known formerly as Ka'agan. The renaming of that region was cited as an instance of historical injustice in three different listening processing sessions conducted in Davao, Mati, and Tagum Cities (25 - 27 April 2015).

In Cotabato City, participants noted that a number of streets and landmarks in the city celebrate Spanish colonial history. For instance, Corcuera Street and Figueroa Street carry the names of Spanish colonial agents. One of the main thoroughfares in the city used to be named "Magallanes Street" after Fernando Magallanes (Ferdinand Magellan), the Portuguese leader of the Spanish expedition that circumnavigated the world and who was slain in the Philippines. Today, the street has been "Filipinized" and is named after Rufino Alonzo in honor of one of the pioneering settlers in the city. A creek that has a special historical significance for the Magindanawn and Teduray peoples used to be called "Daobab" (i.e., "dua obab," literally "two shells"). The name referred to a pair of coconut shells out of which Mamalu and Tabunaway drank, the two brothers who are believed to be the ancestors of present day Teduray and Magindanawns.¹⁰¹ During the Spanish colonial period,

101 The story of the two brothers, Mamalu and Tabunaway, and the pact they made before they parted ways is popularly regarded as a historical fact rather than a folklore item. One of the brothers, Tabunaway, decided to settle in the lowlands and convert to Islam, while the other brother, Mamalu, preferred to remain in the mountains and retain his animist way of life. The two promised to one another that they and their descendants would preserve their familial ties despite the difference in their faiths. The present-day descendants of Tabunaway are the Magindanawn, while those of Mamalu are the Teduray. See: Casino, Eric S. 2015. "Appropriating the message and practice of peace encoded in the legend of Mamalu and

the creek was renamed "Esteros" (the Spanish word for "brook" or "marsh").

According to the listening process participants, the act of substituting indigenous place names with the names of colonizers and settlers has had the effect of erasing the memory of their ancestors, resulting in the erosion of their peoples' knowledge of their own history and identity. It is also evidence of how the demographic balance has tipped in favor of the settlers. These acts paved the way for the dominance of settler politicians and for the gradual marginalization of local Bangsamoro and indigenous leaders who had traditionally held sway over these lands.

Chronic poverty of conflict-affected communities

The everyday reality of living under conflict conditions since the imposition of Martial Law in the 1970s has rendered large numbers of the population of Basilan impoverished, undereducated, and generally excluded from basic social services and development opportunities.

During listening process sessions, Basilan participants pointed to repeated experiences of internal displacement as a striking example of historical injustice committed against them as individuals and as a people. The experience of displacement has come to shape their existence as a community living under the constant threat of war for more than two generations and has had a negative effect on their economic and social well-being. In particular, it has rendered the population of unemployed and disaffected youth vulnerable to recruitment by such groups as the Abu Sayyaf.

Other participants of the listening process in Basilan lamented the fact that, while their native island is richly endowed with natural resources, their economic development has consistently

Tabunaway". Unpublished paper presented at the First International Conference on Multidisciplinary Peace Research in Notre Dame University, Cotabato City on 24 – 25 August 2015.

 $^{^{\}rm 102}$ Listening process sessions in Isabela City, Basilan on 18 March 2015 and on 28 March 2015.

lagged behind the rest of the country.¹⁰³ They saw the roots of chronic poverty in the colonial history of Basilan. Following the US colonial occupation of Basilan, an American company known as the Western Mindanao Logging Company set up operations near Isabela City. This proved to be the beginning of the long history of corporate exploitation of Basilan's natural resources, a practice that continues to this day. Listening process session participants regarded these resource-extractive ventures as a form of historical injustice, because the practice was introduced under a colonial regime and because it encroached upon their priority rights as the native peoples of Basilan to benefit from their natural patrimony.¹⁰⁴

Participant narratives of historical injustice related during the listening process sessions in Zamboanga City resonated with the experiences of their fellow Bangsamoro in Basilan. They described the atrocities that had been committed during the Martial Law period and which continued afterwards, resulting in their current situation as displaced, marginalized, and impoverished people with little educational training. Exposure to extreme violence and years of socio-economic exclusion had left many families in their communities traumatized and psychologically distraught. These experiences eroded their trust in the Philippine government and deepened the divide between them and the majority Christian population. For many of their male counterparts, the painful experiences and unsettled memories of Martial Law continue to drive them into the folds of rebel formations, especially that of the Moro National Liberation Front (MNLF).

Subversion of traditional political, socio-economic, and cultural structures

Many participants of the listening process from Lanao del Sur believe that the forced integration of the Meranaw into the highly centralized Philippine bureaucracy has undermined the traditional role of "taritib ago igma" (custom and law), two important

 $^{^{103}}$ Listening process session with participants from the private sector in Isabela City, Basilan on 13 June 2015.

¹⁰⁴ The section on Marginalization through Land Dispossession has more narratives on this theme.

¹⁰⁵ Listening process session in Barangay Bangkeruhan, Ipil, Zamboanga Sibugay on 15 April 2015.

pillars of Meranaw culture and identity. 106 The imposition of the Philippine state led to the destruction of traditional forms of Meranaw governance and their replacement by a bureaucratic system replete with corruption. Sama-speaking participants attending the Tawi-Tawi listening process sessions shared similar views about the damaging consequences of dismantling the Sulu Sultanate and the *kapanglimahan* (traditional leaders and elders) by the Philippine Commonwealth in 1935 and by the newly independent Philippine Republic in 1946. 107 The collapse of the traditional system of Sama governance paved the way for the rise of a non-Sama political class that undermined their right to be governed by fellow Sama.

Indigenous peoples also decried the "alien" and "bureaucratic" Philippine government structures that have supplanted their traditional systems of governance as a form of historical injustice. In listening process sessions conducted in different regions across Mindanao, indigenous participants narrated how different forms of government beginning with the period of Spanish and American colonization and extending through the era of the Philippine Republic had set the stage for their marginalization through unjust dealings by powerful state agents. In their view, this "strange" Western-oriented manner of government had introduced a way of life that overshadowed their own traditions and cultural practices. As a result, their own customary laws and culture were severely undermined with the attendant consequence that indigenous communities were assimilated into the far more dominant Filipino culture. They regarded the lack of recognition of indigenous identity and culture and the omission of indigenous historical narratives from school textbooks on Philippine history to be a direct result of this assimilation.

Tausug-speaking participants of the listening process in Sulu drew a picture of the historical importance of the progressive and economically dynamic enclaves in the Sulu Archipelago, such as the town of Siasi, which had served as a center of commercial trade

¹⁰⁶ From the collated responses of participants during three listening process sessions in Lanao del Sur: In Barangay Bacayawan, Sultan Dumalondong on 26 May 2015, in Barangay Mipaga, Saguiaran on 29 May 2015, and in Barangay Malna, Kapai on 29 May 2015.

¹⁰⁷ From the collated responses of participants during three listening process sessions on the island of Simunul, Tawi-Tawi: In Barangay Obol on 6 April 2015, Barangay Boheh Indangan on 7 April 2015, and in Barangay Doh Tong, also on 7 April 2015.



until the recent past. 108 The age-old barter system had brought together the Orang Sama, Tausug, Yakan, and other ethnic groups in the Sulu archipelago as well as the inhabitants of islands now considered part of Malaysia in a complex, but socially cohesive trading network. All of this changed, however, following the declaration of Martial Law in September 1972. Many business establishments were pillaged and local Chinese businessmen were harassed, kidnapped, and murdered. Some business owners fled, while those who remained were forced to pay protection money in exchange for their safety. A large number of people moved to Sabah at that time to escape the brutal treatment that they had received at the hands of the Philippine military and paramilitary units. 109 Despite their lack of rights as "illegal aliens" and faced with the threat of arrest and deportation, they believed that they would be safer there and that at least some livelihood opportunities existed.

Discrimination against indigenous peoples

 $^{^{\}mbox{\tiny 108}}$ Listening process session in Jolo, Sulu on 19 March 2015.

¹⁰⁹ This basic narrative was repeated with variations during several listening process sessions in Tawi-Tawi from 19 March – 25 March 2015.



Indigenous participants also spoke about the discrimination that they experience in Moro society as a form of historical injustice. The fact that the Bangsamoro Sultanates had ruled over some indigenous peoples in the past and oppressed them was cited as a reason for the continuing strain in the relationship between the Bangsamoro and Teduray. Specific cases of abuse were also mentioned. Participants claimed that one particular Magindanawn datu and his relatives were known to have maltreated members of the Teduray. Other cases mentioned concerned some Moros who had allegedly abducted and raped indigenous women.

In general terms, the experience of discrimination over generations seems to have had a devastating effect on the self-worth and self-understanding of indigenous peoples. To this day, the social status of the indigenous remains extremely low. Often enough, they feel treated as outcasts by the dominant settler and Bangsamoro populations. Indigenous peoples speak about being ridiculed, humiliated, and referred to as "inferior" and "backward" because of their distinctive way of life. In addition, some Bangsamoro denigrate them as "kapir" (non-believers) for sustaining ancestral beliefs that clash with Islamic laws and teachings.



The legacy of violent conflict

Long years of resistance to domination by colonial powers and to the encroachment of corporations and migrants have had a profoundly negative effect upon the Bangsamoro and indigenous communities. The experience of protracted poverty, human rights abuse, and marginalization prompted the Moros to take up arms in a struggle for self-determination in the 1970s. The continuing cycle of violence since then has left communities traumatized and deeply divided. Indeed, many participants expressed serious concerns about their future, especially about the effect that the conflict has had upon their young people, many of whom show a propensity toward violence, whether in support of criminal activity or in continuing the armed struggle. 110 Despite the peace agreements, the threat of renewed violence remains and the situation is tense. In one listening process session, indigenous participants complained that soldiers had threatened to kill some members of their communities, who were allegedly supporting Moro rebels. 111

Other examples were associated directly with the Martial Law period. Listening process participants from Tawi-Tawi recalled a number of atrocities committed by elements of the Philippine military during the years of Martial Law. 112 The atrocities were not only confined to the mainland and islands of Tawi-Tawi, but took place in the island provinces of Sulu and Basilan as well. Bangsamoro constituencies in all these provinces were subjected to various forms of violence and injustices. Until this day there has been no official investigation of these events.

¹¹⁰ This concern was expressed in some form in all of the listening process sessions in Lanao del Sur conducted from 22 March - 29 May 2015.

¹¹¹ Listening process session in Barangay Awang, Datu Odin Sinsuat, Maguindanao on 24 March 2015.

¹¹² This narrative theme was repeated in all of the 18 listening process sessions conducted in mainland Tawi-Tawi communities from 25 March - 28 May 2015.

Other examples of historical injustice

For both Moro and indigenous participants in Central Mindanao, state-sponsored land grabbing promoted by the passage of land laws, dating from the period of the Philippine Commission in 1902 to the late 1950s, was a blatant form of historical injustice. These laws led to the disenfranchisement of both Bangsamoro and indigenous people populations from their ancestral lands.¹¹³

On the issue of public education, listening process participants also decried the long history of disregard by the national government of the madrasah school system, which plays an important role in the transmission of religious knowledge and universal human values in Muslim society.¹¹⁴

3.2.1 Gender Dimensions of Historical Injustice

Many of the instances of historical injustice provided during the listening process had a clear impact on traditional gender roles. Participants cited the dismantling of the traditional *kapanglimahan* system of governance in the island provinces as example which had far-reaching consequences for both men and women. As a result of the reorganization of local government following Philippine independence in 1946, the *panglima*, traditional community leaders who had served as counselors of the Sultan, were appointed to serve as barangay heads. In the process, female panglima were replaced by men, and women were henceforth limited to their roles as traditional healers in the community.¹¹⁵

Other narratives of historical injustice with gender undertones pertain to the economic insecurity of women. Traditional patriarchal culture has assigned them roles in the domestic realm. Their families do not see the need for them to pursue higher education, since they will be married off in any case. In conflict-affected

¹¹³ For more details on this issue, see the section on "Marginalization through Land Dispossession" below.

¹¹⁴ This was a common lament among Bangsamoro participants of the listening process in Maguindanao, Sultan Kudarat, and Lanao del Sur provinces.

¹¹⁵ The heightening of the Islamic system in Sulu/Tawi-Tawi also contributed to this development.

communities, women are often forced to seek means of livelihood elsewhere. For example, according to one listening process participant, "Women like me need to go abroad, when there are no opportunities for employment in Basilan.... It is very difficult to work abroad, because the culture of our employer is different from what we have here." As it is, most of trafficked women from Mindanao come from conflict-affected communities.

The situation of armed conflict, as described by women respondents in the listening process, increased their vulnerability. Stories of Moro women being abducted, raped, sexually abused, and killed by State security forces are numerous. Some participants told stories of women purposely disfiguring themselves, so that the soldiers would not take interest in them; others kept their children close to them in the hope that the soldiers would ignore them since they were mothers. Often enough, however, this strategy did not work. Even mothers with children at their sides were not spared. Soldiers seized them, subjected them to rape and sexual abuse, and then sent them back to their respective husbands and families. The victimized women were stigmatized by their own families and communities for having "brought" shame upon them. For years, the women have borne their suffering in silence. 117

3.3. Human Rights Violations – Scope and Effects

In the view of the participants of the listening process, human rights violations are linked with the non-recognition of their distinct history, identity, and culture as Bangsamoro and indigenous peoples by the majority Filipino population. As the dominant group in the country, Christians collectively share a proprietary claim to privilege, power, and prestige. Denial of diversity is fundamental to the legitimacy of this claim and, as such, can explain why the majority population, historically, has failed to acknowledge the distinctiveness of the Bangsamoro people and other minority populations that also constitute the Philippines. By not placing a value on diversity and on the need to provide

¹¹⁶ Listening process session with a mixed group of participants in Maluso, Basilan on 14 June 2015.

Listening process session in Barangay Nalilidan, Kalamansig, Sultan Kudarat on 19 April 2015.*

and enforce legal protections to sustain that diversity, the occasion to build a truly multicultural society based on the values of tolerance and equal opportunity has been lost to a large extent in the Philippines until now. On the contrary, the result has been a deeply divided nation with strong aversions on all sides toward the "other." The unhealthy dynamics of majority-minority relations sustained by a sense of entitlement on the part of the Christian majority and met with resistance by the Bangsamoro and indigenous peoples can help explain the social forces that resulted in the gross human rights violations committed by all sides during decades of violent conflict.

Numerous listening process narratives described the horrifying extent of the atrocities committed by Philippine state agents, state-sponsored paramilitary units, and private armed groups against the Bangsamoro and indigenous peoples. Participants recounted cases of massacres, torture, mutilation, pillaging, sexual assault, and rape as examples of grave violations of international human rights and international humanitarian law perpetrated during the decades of armed conflict. On numerous occasions during the listening process, individual participants came forward, one after the other, to recount traumatic events that they had experienced as members of their communities. In some cases, participants would even reenact parts of the story, while relating what happened. These were moments of strong emotion.

Role of non-state armed actors in human rights abuse

According to the participants, one non-state armed group in particular stood out as responsible for many cases of human rights violations during the Martial Law era. This was the group known by the name of *llagâ*. The llagâ were a heavily armed network of government-backed paramilitary units that emerged in Mindanao in the early 1970s. The *llagâ* were reportedly organized and controlled by a group of seven leading llonggospeaking politicians from seven towns in what was then the province of Cotabato. The *llagâ* became notorious for their vicious attacks

¹¹⁸ The word "ilagâ" means "rat" in the Cebuano-Visayan and Ilonggo language. Many Bangsamoro scornfully referred to the name Ilagâ as an acronym for "Ilonggo Land Grabbers Association".

¹¹⁹ The founders of the Ilagâ, known locally as the "magnificent seven," were members of migrant families from Iloilo and other Visayas areas and presided over the municipalities of Alamada, Midsayap, Libungan, M'lang, Tulunan, Tacurong, and

against Bangsamoro leaders and communities throughout Mindanao before and during Martial Law.

Stories have existed for years, supported by media interviews and academic research, suggesting that *Ilagâ* members engaged in acts of murder and pillage, including shocking details of mutilation and desecration of the dead, even cannibalism. Participants of the listening process in Central and Western Mindanao confirmed these accounts as facts. They claimed that *Ilagâ* members cut off the ears of their Moro victims as trophies and that some had eaten the body parts of their victims and drank their blood in the belief that these acts would give them power over their enemies and make them invincible in battle.¹²⁰

The *llagâ* campaigns were directed at Moro rebels and civilians suspected of supporting the rebels. Many members of the *llagâ* fought alongside the Philippine military and the now defunct Philippine Constabulary (PC) in the government's violent campaign against the Bangsamoro struggle for self-determination. The close affiliation of the *llagâ* with the armed forces and the police bolstered their image as a state-sponsored instrument, whose aim was to terrorize the Bangsamoro and indigenous population and to drive them out of their ancestral homelands.

Pigkawayan. A captain of the (now defunct) Philippine Constabulary assigned to the town of Upi in Maguindanao served as a liaison of the Constabulary to the group. The information about the origins of the Ilagâ is based on the narratives in several listening process sessions conducted in Maguindanao and other parts of Central Mindanao.

¹²⁰ Listening process session with participants from different communities in Lambayong, Sultan Kudarat on 7 May 2015.







True enough, after 30 minutes the people inside the mosque were summarily executed. The men, together with women and children, [were] killed and their bodies mutilated. Outside the mosque some houses were also burned. Elements of the Philippine Constabulary and the *llagâ* indiscriminately fired their guns at the people inside the mosque and only stopped shooting when they heard gunshots from outside believed to have been fired by Moro rebels (coming) to rescue the villagers. That was [when] the PC and Ilagâ withdrew from the area.

When the shooting stopped, those who survived the massacre started coming out of the mosque and immediately [the] bodies of the dead and wounded were brought out. One of the children who survived was a one-year old girl, who [when growing up] was constantly told the story by her mother of how she [had been] fed with rain water and burnt rice (*kanin tutong or dukot*) to survive the [difficult] days [that followed the massacre].

Manili became a "ghost town" after the incident; Moro residents evacuated as far away as Lanao.



Sites of other massacres

Participants in other listening process sessions in Mindanao alleged that the *llagâ* had been involved in the pillaging and burning of Moro villages in the following locations:

- Polomolok, South Cotabato in August 1970;
- Upi, Maguindanao in March and September 1970;
- Alamada, Cotabato in December 1970 and in January 1971:
- Midsayap, Cotabato in December 1970;
- Datu Piang, Maguindanao in December 1970;
- Bagumbayan, Sultan Kudarat in January 1971;
- Wa-o, Lanao del Sur in July and August 1971;
- Ampatuan, Maguindanao in August 1971;
- Kisolon, Bukidnon in October 1971;
- Siay, Zamboanga del Sur in November 1971;
- Ipil, Zamboanga del Sur in December 1971;
- Palembang, Sultan Kudarat in January 1972.

Other non-state armed groups

Other non-state armed groups also gained notoriety by affiliating themselves with the Philippine military and reportedly carrying out attacks similar to those committed by the *llagâ*.

During Martial Law, the government disbanded the Barangay Self-Defense Units (BSDUs) and replaced them with the Integrated Civilian Home Defense Forces (ICHDF) that reported directly to the Philippine constabulary. It was argued that the re-organization of the community defense forces would provide added protection from rebel groups. The contrary proved to be the case, according to listening process participants in Lambayong, Sultan Kudarat. The community defense forces allegedly burned houses in addition to carting away livestock and pillaging other farm resources of Moro families.¹²¹

Some Bangsamoro communities responded by organizing their own armed groups to defend themselves from the *Ilagâ*. In Maguindanao, a group known as the "Blackshirts" retaliated against attacks by the military and paramilitary groups upon their Bangsamoro villages, as revealed by the testimonies about the violent events in Upper Taculan, Carmen, Cotabato in 1973. Listening process participants in Carmen recalled that armed men, whom they believed to be members of the Blackshirts, massacred 19 members of a family of settlers, including eight young women and five children. The participants claimed that the armed men had raped the younger women before killing them and dumping their mutilated bodies into the Maridagao river. 123

In the Lanao provinces, another armed group, called the

¹²¹ Listening process session in Barangay Poblacion, Lambayong, Sultan Kudarat on 7 May 2015.

¹²² The Blackshirts (so named because of their black t-shirt uniforms) were allegedly organized by a group of local Magindanawn leaders from four well-known Moro families, i.e., (Salipada) Pendatun, Udtog (Matalam), Sinsuat, and Ampatuan. The first letters of their names form the acronym "PUSA", which is a reference to *pusa*, the Tagalog word for "cat," the natural nemesis of rats. PUSA was the real name of the armed group, which became known as the "Blackshirts" and whose mission was to be the counterfoil to the Ilagâ. (Information based on personal communication with the TJRC).

¹²³ Listening process session in Carmen, Cotabato on 5 April 2015.*

"Barracuda," began terrorizing the settler communities and engaging in battles against the *llagâ*. During the listening process session in Maigo, Lanao del Norte, Christian participants recalled an incident that ignited a violent encounter between the *llagâ* and the Barracudas. The incident stemmed allegedly from the murder of a female teacher whose reproductive organs and extremities were found mutilated. One of the participants accused the members of the Barracuda of committing that atrocity, describing the incident in graphic terms in Visayan:

Trouble started here because they [the Barracuda members] killed one teacher; they pierced her through her sexual organs and cut through the flesh in her legs...¹²⁴

The Malisbong massacre

Another case of a massacre allegedly committed by the Philippine military in collusion with paramilitary groups was the mass slaying of some 1,500 Magindanawn men inside the Tacbil mosque in the barangay of Malisbong in Palimbang, Sultan Kudarat province. The incident, known as the "Malisbong massacre," took place on 24 September 1974, but was only acknowledged as such 40 years later by the Commission on Human Rights (CHR) in 2014.¹²⁵

An eyewitness, who survived the ordeal, participated in the listening process session in the barangay of Malisbong and recounted the tragic events that took place:¹²⁶

¹²⁴ Listening process session in Barangay Mentring, Maigo, Lanao del Norte on 22 May 2015.

¹²⁵ Although there has never been an official investigation of the incident, CHR Chair Loretta Ann Rosales, personally acknowledged the event during a visit to the community in September 2014. CHR personnel facilitated the filing of the claims for reparation by members of the community with the Human Rights Victims Claims Board (HRVCB) at that time. The Moro Women's Center, a local nongovernmental organization (NGO), has documented the incident and provided estimates concerning the number of victims. See: Mindanews. "1,500 Moro massacre victims during Martial Law honored." 26 September 2014. Available at: http://www.mindanews.com/top-stories/2014/09/1500-moro-massacre-victims-during-martial-law-honored/ (accessed on 30 November 2016).

¹²⁶ Based on the collated responses of the listening process session in Barangay Malisbong, Palimbang, Sultan Kudarat on 17 May 2015.

When the infantry brigades [15th IB, 16th IB, 25th IB and 27TH IB] arrived, it was four days after the start of the Ramadan. We were fasting then. One morning, the army went around the area. They first accosted the barangay officials and a municipal councilor.... They were among the first people who were taken away [and] never seen again. More than 1,000 [other] persons were herded inside a mosque. Every day, the army would take away one to ten persons from the mosque. Every time a group of people were taken outside, those who were left inside the mosque would hear shots of gunfire a few hours later. [None] of those taken away from the mosque ever came back. All of them were stripped of their clothes, brought to the beach, made to dig their own graves, then killed by shooting. After a month of detention, the Palimbang town mayor arrived in the area with a military captain and rounded up about 150 [men] from among the 200 people, who [had been] spared from the earlier executions. Except for four persons, who were able to escape and [later] tell their stories, these men, too, disappeared and have never been heard of to this day. What we know is that my grandfather [father of my mother] was buried alive and another relative was nailed to a cross like Christ during this incident. Between seven to nine of my relatives were dragged out of the mosque during those fateful weeks. Only the brother of my father [my uncle] survived the carnage....¹²⁷

Another person, attending the same listening process session, narrated the following account:128

It was the 15th infantry brigade that first entered the community. The soldiers commanded the *kapitan* and the *kagawad* to set up the cannons. When the cannons were fired, it was the civilians

¹²⁷ Similar accounts of the incident were also shared by participants in the listening process sessions conducted in General Santos City and in different areas in Sarangani and Cotabato provinces, indicating that the story of the massacre is well known among the Bangsamoro. The DCF version of the narrative was slightly edited for clarity.

¹²⁸ From the same listening process in Barangay Malisbong. The testimony was slightly edited for clarity.

¹²⁹ During the pre-and post-Martial Law era, the smallest unit of local government bureaucracy, the barangay, was headed by a barangay kapitan (captain). Currently, the term used to refer to the head of the barangay local government unit (LGU) is

who were hit—not the rebels. It was 4 AM (in the morning) when the cannons were fired. At 8 AM, our relatives from Maitum and Dadiangas (General Santos City) called up [Senator Salipada] Pendatun to ask for help. They told Pendatun that it was the civilians who were being killed and not the rebels.

After a while, the civilians descended from their mountain refuge to surrender to the soldiers even though they were not rebels. Those who did not immediately leave their mountain villages were ordered to move. Otherwise they would be slaughtered by a *bomba na apoy* (cannon fire) that the soldiers would unleash. Still, several [groups of] civilians refused to abandon their mountain villages, prompting the military captain to issue an ultimatum. In the midst of the stand-off, the Governor of Cotabato province visited the place, surprising and scaring off the residents, who ran away in fear that the helicopter would crush us. 130 When this happened, the military commander (kapitan) ordered the execution of members of the community who refused [orders to remain in place]. Some of the people overheard the officer saying, "Kill all these rebels. Everyone else here is a rebel.

When the Governor left, the people were herded back inside the mosque. Soon after that, the military began taking about ten persons out of the mosque in the morning, noon, and afternoon. People who were herded out were supposedly asked to carry some sacks of rice, but afterwards the detainees never came back. Those who were inside the mosque would hear shooting. Sometimes they would take out 15 persons at one time and execute them, one after the other. Most of the people who stayed inside the mosque were killed, while those who were outside were unable to do anything [to help them]....

barangay "chairman." A *kagawad* is a member of the barangay LGU council and, as such, he or she is referred to as a "councilor."

130 Years after the incident, the reporters of the Mindanao Kurier, a publication of the Moro Peoples' Resource Center (MPRC) in Cotabato City, learned that the Governor of South Cotabato province did in fact visit the site during the military occupation. The Governor at that time was Gov. Gonzalo Siongco, Ironically, the military camp of the 6th Infantry (Kampilan) Division in Barangay Awang, Datu Odin Sinsuat, Maguindanao is named Camp Gonzalo Siongco in honor of Governor Siongco, who allegedly ordered the mass killing of some 1,500 Magindanawn Muslims.

During the same listening process session, another participant claimed that one of her aunts, who was raped together with other women from Malisbong, had later killed herself rather than live a life of "shame" for the rest of her days.

Participants attending listening process sessions in Lanao del Norte explained that surviving a massacre did not mean being "safe and secure" from other forms of violence. As refugees, they found themselves exposed to other kinds of dangers. They claimed that Muslims were mistreated in the evacuation centers solely because they were Moros. Some displaced persons were reportedly killed while fleeing from the war zone.¹³¹

Sexual and gender-based violence

Indigenous participants attending a listening process session in Cotabato City described how indigenous women were routinely subjected to sexual abuse by government soldiers during the years of conflict. Aside from the violence and humiliation suffered by the victims, the abuse has had a negative effect on familial relations. As one women explained:

Soldiers left behind many indigenous women pregnant...This put a strain on the relations with their families....¹³²

Government soldiers allegedly committed another massacre in the barangay of Tran in the town of Kalamansig, Sultan Kudarat in 1975. A participant in one of the listening process sessions in Maguindanao recounted the incident as follows:

The military ordered Moro barangay officials to call their constituents for a meeting in Poblacion, Kalamansig, Sultan Kudarat. Once gathered, the military surrounded the villagers, separated [the] women from [the] men, and then brought [the men] to the army barracks and locked [them] up. While under military custody, the soldiers pulled out one or more Moro men

¹³¹ From collated responses of participants in listening process sessions in the municipalities of Tagoloan and Baloi, Lanao del Norte on 31 March 2015 and on 2 April 2015, respectively.

¹³² The testimony of a female participant during the listening process session in Barangay Rosary Heights 4, Cotabato City on 25 March 2015.

every day from detention, but only to be killed right in front of the rest. On the seventh day of their incarceration, only 30 men remained in that barracks. They boarded the last 30 men on a naval boat supposedly to be released. The men were instead shipped off to barangay Tran where they were all killed. They were massacred.

While the Moro men were confined in the military camp, the soldiers took the women and the children on board a naval boat. As they were boarding the naval [boat], some children fell into the sea, but the troops merely watched them drown. On board the naval boat, the soldiers raped the women and then brutally killed them. 133

During two separate listening process sessions in General Santos City, participants described the grisly torture and murder of pregnant women by solders during Martial Law. The participants claimed that the soldiers killed and mutilated the women by cutting open their wombs and removing their unborn children. They also claimed that the soldiers raped and physically mutilated women by cutting off their breasts and then killed them. Some of the women who survived rape and torture by the military or the Ilagâ were later forced into prostitution. In an effort to avoid being raped or sexually abused by the military, some young women living in conflict zones married early.¹³⁴

Other types of abuse: "Hamletting" and "salvaging"

During the period of Martial Law in Mindanao, an everyday vocabulary of atrocities emerged, reflecting the ruthless practice

¹³³ Listening process session in Barangay Nuro, Upi, Maguindanao on 22 April 2015. The separation of the men from the women, which resulted in the killing of the men, is a clear example of gender-based violence. The separation of the women and children for the purpose of raping the women and then killing them together with their children, however, is a case of both gender-based and sexual violence. For a definition of sexual and gender-based violence, see Office of the High Commissioner on Human Rights. Sexual and Gender-based Violence in the Context of Transitional Justice. October 2014. Available at: http://www.ohchr.org/Documents/Issues/Women/WRGS/OnePagers/Sexual_and_gender-based_violence.pdf (accessed on 26 January 2017).

¹³⁴ Listening process session with participants from different communities in General Santos City on 20 March 2015.

of military operations in the region. Two of the more well-known terms were "hamletting," in reference to the restrictions placed on the movement of people and goods in regions declared as conflict zones, and "salvaging" for summary executions. Both terms were part of the vocabulary of counterinsurgency and were a mainstay of the strategy employed against the Moro insurgency at that time. Listening process participants in several areas recounted how civilians were "hamletted" when soldiers were sent on a mission to hunt down suspected rebels in their villages. The soldiers would "confine" civilian residents within their village and control their movements through a system of curfew hours. As part of hamletting, the soldiers also imposed limits on the quantities of rice and other goods that they could buy on the premise that large-scale procurements would be passed on to the rebels. In the words of one participant at a listening process session in Basilan, these measures placed a heavy burden on poor families whose day-to-day existence often hung in the balance:

...It was difficult for us during the Martial Law years, because we had to move from one place to another. When we [delivered] our copra, we [had] to get a pass from the detachment of the military. And then, when we [bought] rice, we were only allowed to buy 10 gantas, because if we [wanted to] buy more, we [would be] suspected of supplying the MNLF.¹³⁵

A participant at the listening process session in Sto. Nino, South Cotabato narrated a similar story:

In 1979, I was a grade school student when the military entered Upper Sepaka. They said there were rebels in the community. [Then] they tied up 10 teachers, some students, and other civilians. No one was given food the entire day. The soldiers pressured them to reveal the identities of the rebels in the village. We were all shaken. There were no rebels in our barangay because our parents would not approve of men joining them. Upon hearing of the incident, my father [who was respected by

¹³⁵ Listening process session with participants from Muhammad Ajul municipality held in Lamitan City, Basilan on 25 April 2015. A ganta is a unit of volume equivalent to 1.5 to 2.0 kg.

story of the hamletting. My father personally knew one of the Marine officers, a captain, and he inquired about the fate of the detained villagers. My father was told to identify each detainee, including the teachers, their students, and also a few other civilians. Instead of responding, the [Marine officer] said to my father: 'Let's discuss this. I will go to your house." The captain went to our house and took some important things and money. Many of the things he took were never returned. 136

In one village in Lanao del Sur, soldiers surrounded a house in search of a suspect. They then called on the suspect to come out and give himself up. When no one replied, the soldiers opened fire at the house, killing several residents including women and children. According to the participants, the carnage was sickening. The shooting left a trail of blood and of flesh splattered across the walls.¹³⁷

In the case of "salvaging," suspected rebels were the usual victims of extrajudicial executions allegedly committed by military agents. Participants at a listening process session in Tuburan, Basilan reported a particularly odious case of mistaken identity, involving the arrest, torture, and killing of a suspect by the military. The participants claimed that soldiers from the 32nd Infantry Battalion, while stationed in Barangay Solloh, arrested an innocent man on the suspicion that he was a rebel. They then ordered him to dig a hole for his grave. Thereupon, the soldiers reportedly hanged the man upside down with his feet tied to the branch of a mango tree which was then set on fire. 138

Narratives of violence in the period after Martial Law

State-sponsored violations of international human rights and humanitarian law continued after the official lifting of Martial Law in January 1981. Narratives shared during the listening process

- ¹³⁶ Listening process session in Barangay San Isidro, Santo Nino, South Cotabato on 15 May 2015.
- ¹³⁷ Listening process session in Barangay Miniros, Lumbayanague, Lanao del Sur on 29 April 2015.*
- ¹³⁸ Listening process session with participants from different communities in Tuburan, Basilan on 29 March 2015.

describe the ruthless manner in which Philippine soldiers and their paramilitary affiliates pursued their campaign to suppress the Moro rebellion by terrorizing Moro communities suspected of sympathizing with the guerrillas. Combat operations took place on land and at sea during the 1980s and 1990s throughout Mindanao and the Sulu archipelago, resulting in numerous atrocities against the civilian population. Many of those attending the listening process sessions were survivors of such events and provided eyewitness testimony of what happened at that time. Others told stories about massacres and other violent incidents that they had heard about.

One listening process participant recalled a campaign of looting and burning of Moro houses conducted by "Christian" members of the Civilian Armed Forces Geographical Unit (CAFGU) in Lambayong, Sultan Kudarat:

In the 1980s, Christians burned houses owned by Muslims at the height of violence. We stayed at the Islamic Center in Tacurong, because we were afraid that the CAFGU might return.¹³⁹

Participants from Tawi-Tawi recounted horrific stories about Philippine naval operations at sea, during which civilian passenger boats were fired upon or stopped and searched and the passengers summarily executed. One such story concerned the so-called "Tong Umapuy Massacre" in 1983:

A boatload of passengers was on its way to attend an athletic meet in Bongao. Many of the passengers were student athletes, their coaches, and some other school officials. A Philippine naval boat with soldiers [aboard] allegedly spotted them and fired at the boat, killing 57 people onboard. Only a few survived. Among them was one of the young athletes, who formed part of the Sibutu delegation to the provincial athletic meet.¹⁴⁰

Listening process participants narrated accounts of other massacres

¹³⁹ Listening process session with participants from different communities in Lambayong, Sultan Kudarat on 7 May 2015.

¹⁴⁰ Listening process session in Barangay Pasiagan, Bongao, Tawi-Tawi on 14 April 2015.

that took place at sea in Tawi-Tawi during that period. One case concerned a Bongao-bound *palakaya* (fishing boat) that was stopped by a naval boat carrying soldiers. The soldiers climbed on board and ordered all the passengers to line up and then executed them in the manner of a firing squad. The bodies of the slain were reportedly either burned or buried in shallow graves.

Similarly, a second incident involved another boat filled with passengers, traveling to the provincial government *kamahardikaan* foundation anniversary at the Bongao capitol grounds. Soldiers on board accosted one of the male passengers, but then proceeded to order all of the men on board to disembark and form a line. The soldiers then reportedly shot and killed all of the men who had lined up. A third case involved an incident when soldiers entered a Bongao village and demanded that all of the men come out of their houses and assemble in a central place. They then executed them all, one after the other.¹⁴¹

¹⁴¹ Based on the collated responses of three different listening process sessions in: Barangay Poblacion, Bongao, Tawi-Tawi on 28 March 2015, in Barangay Tubig Basag, Bongao, Tawi-Tawi on 1 April 2015, and in Baranguay Tigbanuang, Tungawan, Zamboanga Sibugay on 14 April 2015.

From the 1990s onwards, the government's justification in prosecuting the armed conflict in Mindanao shifted from quelling the local secessionist movements to aligning the Philippines with the US-led global war on terror. One of the consequences of that shift was an escalation of human rights violations against civilians, the brunt of which was borne by the Muslim minority community. 142 During the decade of the 1990s, the government unfolded its anti-terror campaign against the backdrop of negotiations to resolve the long-running Bangsamoro problem and end secessionist warfare. In the year 2000, however, the government recalibrated its campaign and committed itself to an "all-out-war" against "terrorist elements" in Mindanao, identifying the MILF as its main target. In 2004, a large-scale offensive was launched to suppress the "state of lawlessness" in Mindanao and, again in 2008, "anti-terrorism" was used as a justification to address hostilities that broke out after the failure to implement the Memorandum of Agreement on Ancestral Domain (MOA-AD). Anti-terrorist operations, described as "all out justice against lawless elements", continued under Aguino administration. 143

The dramatic effect that the focus on anti-terrorism has had on the civilian population came to light during the listening process in Basilan. Listening process participants narrated stories of abuse that civilians had suffered at the hands of the military:¹⁴⁴

A certain 'Abdul' (fictitious name) has been in jail for five years. He was arrested by soldiers. He is now detained in Manila. Allegedly, he is a member of the Abu Sayyaf Group [ASG]. He was tortured. He was drenched with gasoline and set on fire.

¹⁴² Concerning the effects of the anti-terrorist campaign on Muslim communities in Mindanao, see: Santos, Solimon M. "Terrorism and Philippine Armed Groups: Networks, Lists, and the Peace Process (Overview)". Pp. 91-112. In: Diana Rodriguez (ed.). 2010. Primed and Purposeful: Armed Groups and Human Security Efforts in the Philippines. Geneva: Small Arms Survey, Graduate Institute of International and Development Studies. Available at: http://www.smallarmssurvey.org/fileadmin/docs/D-Book-series/book-12-Philippines/SAS-Armed-Groups-Human-Security-Efforts-Philippines.pdf (accessed on 4 December 2016).

¹⁴³ In Mindanao, the operations were directed at separatist groups including units of the MILF, which were accused of operating as "MILF by day and ASG by night." See: Elena L. Aben and Jo Bello Ruiz. "AFP launches air strikes. Surrender of 'MILF by day, ASG by night' members sought." In: The Manila Bulletin. 25 October 2011.

¹⁴⁴ Listening process session in Barangauy Aguada, Isabela City, Basilan on 8 June 2015.*

But luckily he survived. He is not an ASG member; he is actually the owner of a bakery. When the incident happened, he had just arrived from Sabah.

In 2011, the military in Al-Barka under a Meranaw military lieutenant killed a Moro by burning him in a kiln.

Sometime in 2014, a student of Sinangkapan National High School, Tuburan Municipality went to Lamitan to buy materials for a project in school. He was arrested by the police in Lamitan... allegedly for extortion. He was tortured and killed.

3.3.1. Gender Dimensions of Human Rights Violations

Rape stands out as the most common form of sexual violence against women and men in Bangsamoro and indigenous communities. Participants in various listening process sessions bore witness the following incidents of sexual violence:

- Soldiers from the 9th and 28th Infantry Battalions and members of the *llagâ* allegedly raped women in different parts of the Zamboanga peninsula in 1972. The participants claimed that some of the women were compelled to marry the soldiers who had raped them to avoid being shamed.¹⁴⁵
- Between 1972 1974, soldiers from the same units and llagâ forced Bangsamoro women to serve as "sex slaves" for sailors whose boats were docked at the ports in Labangan and Ipil, Sibugay. The soldiers and para militaries rounded up at least ten women at a time and forced them to board the naval boats where they were sexually assaulted by the sailors. They were released later only to be replaced by another group of women. Allegedly, as many as 200 women were forced into sexual slavery during this period.¹⁴⁶

¹⁴⁵ Listening process session in Barangay Bangkerohan, Ipil, Zamboanga Sibugay on 15 April 2015.

¹⁴⁶ Listening process session in Barangay Bangkerohan, Ipil, Zamboanga Sibugay on 15 April 2015.

 A couple was forced to have sex in front of soldiers from the 41st Infantry Battalion in 1976.¹⁴⁷

In Basilan, as well, some women were allegedly coerced into marrying the soldiers who had sexually abused and raped them.¹⁴⁸ Listening process participants from Turtle Islands, Tawi-Tawi alleged that some of the women sexually abused by the military were subsequently trafficked.¹⁴⁹

The deportation of Sama Dilaut men and women from Sabah has also pushed some of them to engage in prostitution and other illegal trade or business, including the sale of illicit drugs. 150

3.4. Marginalization through Land Dispossession – Scope and Effects

For the different ethnolinguistic groups of the Bangsamoro and indigenous peoples, land is the basis of their livelihood and of their distinctive identity as a people. For them, land has a particular significance as the source of life of the community that is nourished by it. Throughout their history, the Bangsamoro peoples have valued their lands accordingly and resisted any attempt by foreign intruders to encroach upon their territory. To defend their land was also to defend their Islamic beliefs and way of life.

Since the end of the nineteenth century, laws concerning land ownership in Mindanao have been regulated on the basis of the so-called "Regalian doctrine," a legal premise rooted in the Spanish colonial era, which maintained that all lands in the Philippines belonged to the Spanish crown. This provided the legal framework regulating land ownership when the Philippines became a colony of the United States in 1898 and remained in force after the Philippines gained its independence in 1946.

¹⁴⁷ Listening process session in Barangay Tigbanuang, Tungawan, Zamboanga Sibugay on 14 April 2015.

¹⁴⁸ Listening process session with participants from the municipality of Mohammad Ajul in Barangay Matibay, Lamitan City, Basilan on 25 April 2015.

¹⁴⁹ Listening process session in Barangay Poblacion, Bongao, Tawi-Tawi on 18 March 2015. Some former male employees at the local mayor's office were also allegedly involved in the crime.

¹⁵⁰ See footnote 75 above.



The doctrine has served as the foundation of succeeding public and private land laws in the Philippines. As such, it contravened Bangsamoro and indigenous historic claims of ancestral ownership, based on continuous occupation of large swaths of territory in Mindanao "since time immemorial."

The concept of individual land ownership, according to which land is a commodity to be secured by legal documents, is foreign to the indigenous peoples of Mindanao.¹⁵¹ The Teduray, the Manobo, and the Islamized peoples native to the southern Philippines never used written documents as an instrument to establish and prove land ownership. They tilled the land that they lived on according to the principle that human beings are merely "khilafah" or "vice-regents" (stewards) of God's creation on earth.¹⁵² For them, land was not

¹⁵¹ With regard to the question of how the peoples native to Mindanao have traditionally identified with their surroundings, see: Casino, Eric. 2000. Mindanao Statecraft and Ecology: Moros, Lumads, and Settlers across the Lowland-Highland Continuum. Cotabato City: Notre Dame University (originally published by the University of Michigan, 1999).

¹⁵² On the role of Adam in the Holy Qur'an as "vice-regent" on earth, see Surah Al Baqarah ("The Cow"), verse 30: "... your Lord said to the angels, 'I am placing on the earth one that shall rule as My Deputy...." (The Koran. 1999. N. J. Dawood. Revised Translation.) Indigenous peoples share a similar understanding of "stewardship" with respect to their role and responsibility in cultivating the land

a commodity to be bought and sold, but rather a resource to be nourished by the community, just as the community was nourished by the land. It was on this principle that the Bangsamoro and indigenous peoples fixed their attachment to the land and, by extension, to the seas and other bodies of water, and even to the skies above as markers of their distinctive identities. A sign of this attachment can be found in the etymologies of the names that the Bangsamoro have given to themselves. The name "Maguindanaw" is derived from the two words "maguin" (people) and "danaw" (flood plains). Hence they are known as the "people of the flooded plains" in reference to the sprawling Cotabato basin, land on which they have lived for generations. Similarly, the etymology of "Meranaw" as the people of the "lake" (ranao in the Iranaon language) highlights the ancestral home of the Meranaw around Lake Lanao. In the Sulu archipelago, the Tausug are associated by name with the seas that surround them as "people" (tau) borne by the "current" (sug).

The act of dispossessing the Bangsamoro and indigenous peoples of their ancestral lands through the introduction of a legal system that was entirely foreign to their cultural tradition was a grave historical injustice tantamount to an act of aggression that deprived the native peoples of Mindanao of their source of life and cultural identity. As one participant poignantly articulated in one of the listening process sessions:

Now that we have no lands, who are we? How will we classify ourselves (as Meranaw)? We now have a confused identity.¹⁵³

A common thread throughout the listening process was the self-understanding of the participants as members of diverse and distinctive communities, whose ancestral lands and waters and whose access to the seas were systematically taken away from them, resulting in their current state of social, political, and economic marginalization. From among the numerous experiences shared by the participants, a typology of land dispossession can be constructed that traces certain forms and patterns.

they dwell upon, as explained by Mr. Santos Unsad, one of the indigenous facilitators, during the TJRC Convergence Workshop, 14-15 August 2015.

¹⁵³ Listening process session with participants from the barangays of Tuca and Pindolonan in Barangay Pindolonan, Marawi City, Lanao del Sur on 13 May 2015.*

One level is institutional and is associated with the legal instruments of land dispossession employed by successive colonial and postcolonial government agents, collaborating with corporate interests. Another track of land dispossession was spurred by landowners, some of whom were known to be descendants of Spanish tax declaration holders that took possession of large landholdings from Bangsamoro and indigenous peoples. The Table below shows the forms and patterns of land dispossession on both levels, illustrated by examples shared by participants during the listening process.

Table: Forms of land dispossession: Examples shared during the LP sessions

Institutional level

Specific instrument or actor

Spanish colonial government

Regalian doctrine

Events cited during the listening process

• Treaty of Paris in 1898, in which Spain ceded "possession" of the Philippines to the United States in exchange for a sum of USD 20 million ¹⁵⁴

Institutional level

Specific instrument or actor

American colonial government

Public land laws

Events cited during the listening process

 Land Registration Act of 1902, of 1903, and of 1905, whereby the 1905 version declared all lands that were not registered in 1902 and 1903 to be public lands.¹⁵⁵

¹⁵⁴ Repeatedly mentioned during listening process sessions conducted in Lanao del Sur and in Lanao del Norte, in the listening process session held in Barangay Bual, Isulan, Sultan Kudarat on 18 April 2015, and in three listening process sessions conducted in MILF communities in Maguindanao and Cotabato; also mentioned in the listening process session in Barangay Napo, Linamon, Lanao del Norte on 25 March 2015.

155 From the DCFs of several listening process sessions, i.e. the sessions conducted among indigenous peoples in Barangay Awang, Datu Odin Sinsuat, Maguindanao and in Nuro, Upi, Maguindanao between 21 March and 19 April 2015 and in the two separate listening process sessions held in Midsayap and in Kidapawan, Cotabato on 20 May 2015. The public land laws were also cited as examples of unjust land dispossession in listening process sessions conducted in Barangay Poblacion, Balabagan, Lanao del Sur on 16 April 2015, in Barangay Nalilidan, Kalamansig, Sultan Kudarat on 19 April 2015, in Barangay Lower Salsar, Mati, Davao Oriental on 27 April 2015, and in Barangay Pindolonan, Marawi City, Lanao del Sur on 13 May 2015.

American colonial government Philippine Commonwealth government Corporations engaged in agriculture and rubber production; Migrants from Visayas and Luzon

Events cited during the listening process

- Lands belonging to indigenous peoples and Moro groups were granted to settlers through a series of land laws that allowed migrants from the Visayas and Luzon to settle in Mindanao. 156
- These laws included the Philippine Commonwealth Act No. 2254, creating agricultural colonies in Cotabato Valley (1913); Commonwealth Act No. 2280, creating the Momungan Agricultural Colony in Lanao province; Legislative Act No. 4197, known as the Quirino–Recto Colonization Act (1935), and Commonwealth Act No. 4411, creating the National Land Settlement Administration (NLSA) (1939).¹⁵⁷

Philippine Republic Martial Law, counter-insurgency and anti-terrorist policies; Armed Forces of the Philippines (AFP), Philippine Constabulary, BSDU and CAFGU, statesponsored paramilitaries, private armed groups

Events cited during the listening process

- The *llagâ* and other paramilitary groups were deployed to "systematize" land grabbing by politticians.¹⁵⁸
- The occupation of some 88 hectares of Moro lands by the ${\it llag\hat{a}}$ in Kolambugan, Lanao del Norte and the deployment of the ${\it llag\hat{a}}$ to

¹⁵⁶ Listening process session in Barangay Awang, Datu Odin Sinsuat, Maguindanao on 24 March 2015.

¹⁵⁷ These acts were specified by name in the listening process sessions conducted in MILF-Communities from 4 March to 9 July 2015. The Commonwealth Act No.141 (1936), an important law which declared all Moro ancestral landholdings to be public land, was not mentioned during the listening process sessions.

¹⁵⁸ Listening process session in Barangay Ramongaob, South Upi, Maguindanao on 21 March 2015.

drive the Meranaw away from their lands in Maigo, Lanao del Norte were cited as examples of land dispossession by force.¹⁵⁹

- Many of the ancestral lands evacuated by the displaced Bangsamoro and indigenous peoples during the armed conflict were taken over by persons who managed to obtain land titles and other forms legal instruments of land ownership.¹⁶⁰ In many cases, it was Christian settlers, who occupied and took over lands left behind by Moro and IPs, who were displaced.¹⁶¹ As one participant remarked, "War is done purposely to grab our lands."¹⁶²
- Government soldiers seized lands owned by Yakan families in Basilan in the 1960s.¹⁶³
- Military officials also secured titles to commercial plantations in Basilan, for example one of the largest rubber plantations in the region near Barangay Ulame, Lamitan. Another example cited is a rubber plantation of some 700 hectares also in Basilan that was taken over by the family of a senior Martial Law official. 164
- Indigenous communities were displaced by a government decision to set aside indigenous ancestral land as a military reservation. 165
- Listening process sessions in the municipalities of Maigo and Sapad, Lanao del Norte on 22 May 2015 and on 27 May 2015, respectively.
- ¹⁶⁰ From the DCFs of the listening process sessions conducted in MILF communities and also mentioned in the DCFs of the listening process sessions held in Barangay Upper Bato-Bato, Akbar, Basilan on 5 April 2015 and in Barangay Poblacion, Isabela City, Basilan, 15 June 2015.
- ¹⁶¹ Listening process sessions in the municipalities of Tantangan and Koronadal, South Cotabato on 20 May 2015 and in Barangay Poblacion, Tampakan, South Cotabato on 21 May 2015.
- Remark by an indigenous participant during the listening process session held in Barangay Poblacion, Tampakan, South Cotabato on 21 May 2015, cited above. Similar sentiments were expressed by an indigenous participant in the listening process session conducted in Wao, Lanao del Sur on 10 June 2015. This opinion about the ultimate purpose of the war was also expressed by participants in the listening process sessions held in Ipil and in Tungawan, Zamboanga Sibugay on 14 and 15 April 2015, respectively.
- ¹⁶³ Listening process session with residents from the municipality of Ungkaya Pukan in Barangay Poblacion, Isabela City, Basilan, 16 June 2015.*
- Listening process session with residents from the municipality of Ungkaya Pukan in Barangay Poblacion, Isabela City, Basilan, 16 June 2015.
- From the DCFs of the listening process sessions conducted in indigenous communities in Barangay Ramongaob, South Upi, Maguindanao on 8 April 2015 and in Barangay Ala, Esperanza, Sultan Kudarat and from 19 May 2015 and of the sessions held in the municipalities of Sultan Naga Dimaporo, Baloi, Tangkal, and Iligan City in Lanao del Norte from 26 March 5 June 2015.

Events cited during the listening process

Bangsamoro families were also driven off their ancestral land after their lands were officially declared military reservations. 166

• A military general seized ownership of an islet in Sulu. 167

Institutional level

Specific instrument or actor

Philippine Republic

Provinces and municipalities

Gerrymandering

Events cited during the listening process

- The government engaged in the arbitrary division of provinces to undermine the political influence of Bangsamoro elected leaders in favor of Christian politicians, representing the Ilonggo and other Visayan settlers. An example frequently mentioned: The province of Cotabato (once the largest province in the country) was split by Congress into the provinces of North and South Cotabato during the time of President Marcos. These two provinces were later cut up into four smaller provinces to ensure that Christian politicians control more provinces in the region. In 1991, South Cotabato was further subdivided into two provinces, i.e. South Cotabato and Sarangani. ¹⁶⁸
- The undivided Lanao province was also divided into Lanao del Norte and Lanao del Sur. A prominent local Christian politician was appointed to administer Lanao del Norte.
- The arbitrary subdivision of the juridical boundaries of local government units (LGUs) also resulted in disputes about municipal boundaries. The current dispute between (the predominantly Christian) Iligan City and the (predominantly Meranaw) municipality of Baloi was mentioned as an example. 169

¹⁶⁶ From the DCFs of the listening process sessions conducted in Sto. Nino, South Cotabato on 15 May 2015 and in Marawi City, Lanao del Sur on 19 May 2015; as well as in Ipil, Zamboanga Sibugay and in Zamboanga City from 14 April - 30 May 2015. The issue was also repeatedly raised in the sessions held in the MILF communities.

Listening process session in Maimbung, Sulu on 21 March 2015.

¹⁶⁸ Mentioned repeatedly in the DCFs of the listening process sessions conducted in MILF communities.

Listening process session in Barangay Tagoloan, Poona-Piagapo, Lanao del Norte on 1 April 2015.

Institutional level

Specific instrument or actor

- Philippine Republic
- Provinces and municipalities
- Multinational corporations
- Local mining and logging companies

Events cited during the listening process

- Divide and rule tactics succeeded in driving a wedge between indigenous peoples. Communities were split between those who favored and those who opposed mining and logging operations in the hinterland regions of Tampakan in South Cotabato. Indigenous communities critical to the Tampakan ventures were reportedly harassed and coerced to approve corporate plans of mining and developing parts of the region into fruit plantations.
- The encroachment of logging firms and their heavily armed security forces into ancestral lands drove away some of the indigenous peoples.¹⁷⁰
- Other examples of encroachment and dispossession cited by listening process participants include the following: The bulldozing of Bangsamoro ancestral lands and the destruction of grave markers in Kiwalan, Iligan City; 171 rapacious natural resources extraction in Tawi-Tawi, includ-ing illegal logging operations near Mapun and dynamite fishing in Pitogo. 172

Institutional level

Specific instrument or actor

- Philippine Republic
- Provinces and municipalities
- National laws and policies
- DAR mechanisms, including cadastral surveys
- DENR programs
- Landbank foreclosures

¹⁷⁰ Listening process session in Barangay Poblacion, Esperanza, Sultan Kudarat on 20 March 2015

Listening process session in Barangay Kiwalan, Iligan City, Lanao del Norte on 17 April 2015

 $^{^{172}}$ From the DCFs cited in the LP report on the Tawi-Tawi islands cluster for the month of March 2015.

The following specific examples of policies and other measures were mentioned:

- Laws and official government policies, such as the Integrated Forestry Management Agreement (IFMA), Pasture Land Agreement (PLA), and Timber License Agreement (TLA) opened up indigenous ancestral lands to commercial operations;¹⁷³
- DAR classification of Moro and indigenous ancestral lands as "abandoned" allowed Christian settlers to title them;¹⁷⁴
- Special Presidential Assistance for Returning Evacuees (SPARE) enabled Ilonggo settler families to grab lands from Moro and indigenous peoples;¹⁷⁵
- The "Voluntary Offer to Sell" (VOS) mechanism of the Department of Agrarian Reform (DAR) was misused by Christian settlers;¹⁷⁶
- The Department of Environment and Natural Resources (DENR) awarded Certificates of Stewardship contracts exclusively to Christian settlers under the department's integrated social forestry program;¹⁷⁷
- The distribution of land by the National Development Corporation (NDC) favored the settler communities, while ignoring claims by the Bangsamoro and indigenous communities. 178
- The Bureau of Lands issued multiple land titles to Bangsamoro and indigenous applicants;¹⁷⁹
- Granting logging concessions (encroaching upon ancestral lands) to settler families; 180
- The use of cadastral surveys to grab lands systematically;¹⁸¹
- The table survey of lands conducted by Bureau of Lands in Tawi-Tawi certified areas in Mapun and Sama ancestral lands as public and disposable lands;¹⁸²
- ¹⁷³ Listening process sessions in the Baragays Tamontaka and Awang in Datu Odin Sinsuat, Maguindanao on 18 June 2015 and on 20 June 2015, respectively.
- Listening process session in Sapad, Lanao del Norte on 27 May 2015.
- ¹⁷⁵ Listening process session in Sto. Nino, South Cotabato on 15 May 2015.
- ¹⁷⁶ Listening process session in Barangay Poloy-Poloy, Lebak, Sultan Kudarat on 29 June 2015.
- Listening process session in Maasim, Sarangani Province on 16 April 2015.
- ¹⁷⁸ Listening process session in Sto. Nino, South Cotabato on 15 May 2015.
- ¹⁷⁹ Listening process session in Tantangan, South Cotabato on 20 May 2015.
- $^{180}\,$ Based on the collated responses during listening process sessions in Polomolok, South Cotabato, in Cotabato City, and in Kalamansig, Sultan Kudarat from 2 7 May 2015.
- ¹⁸¹ Listening process sessions in Barangay Kiwalan, Iligan City, Lanao del Norte on 17 April 2015 and in the municipalities of Tagoloan, Poona Piagapo, and Baloi, Lanao del Norte from 31 March 2015 2 April 2015.
- Listening process sessions in different localities on mainland Tawi-Tawi from 27 March to 16 April 2015.

Events cited during the listening process

- The implementation of the Comprehensive Agrarian Reform Program in Tawi-Tawi mainly favored Christian settlers over the Sama;¹⁸³
- The Land Bank of the Philippines foreclosed on ancestral lands submitted as loan collateral by the Meranaw of Lumbayanague municipality.¹⁸⁴

Institutional level

Specific instrument or actor

- Municipal government
- Traditional governing structures
- Non-state armed actors
- Individual or family

- Multinational corporations
- Business and personal loans
- Deceitful and coercive transactions, including marriage contracts

Events cited during the listening process

Various examples were given of deceitful or coercive interventions that resulted in land dispossession:

- Multinational corporations enticed indigenous families to "rent out" their lands for a longer period of time (from 5 to 25 years) in T'boli and Surallah, South Cotabato;¹⁸⁵
- Irregularities concerning the resettlement of IDPs following the siege of Zamboanga in 2013, including the forcible transfer of Moros to transitory sites, the introduction of an onerous "tagging" mechanism as a system of housing distribution, and the declaration of "no return zones" in order to bar Bangsamoro landowners from returning their original homes;¹⁸⁶
- A Moro *datu* in Maguindanao misused his authority to grab lands in Datu Odin Sinsuat:
- Armed Tausug men encroached upon the Sama Dilaut's agal-agal pondohan (seaweed farms);¹⁸⁷
- Rice loans to Bangsamoro and indigenous families were later recorded as payment for lands grabbed by settlers;188
- Listening process sessions in different localities on mainland Tawi-Tawi from 27 March to 16 April 2015.
- ¹⁸⁴ Listening process session in Barangay Miniros, Lumbayanague, Lanao del Sur on 29 April 2015.
- Listening process session in Koronadal City, South Cotabato on 20 May 2015.
- Listening process session in Zamboanga City, Zamboanga del Sur on 26 May 2015.
- ¹⁸⁷ Listening process session in Bangkaw Layohan, Sanga-Sanga, Tawi-Tawi on 21 March 2015.
- ¹⁸⁸ Listening process session in Tantangan, South Cotabato on 20 May 2015.

Events cited during the listening process

- Unscrupulous settlers/businessmen demand land as collateral for loans to indigenous peoples. If the indigenous borrowers are unable to pay off their loans, the lenders foreclose on the loans and "grab" their lands;¹⁸⁹
- Taking indigenous women in marriage in order to exploit the lands and mineral resources in Tampakan;¹⁹⁰
- Deceiving and coercing indigenous peoples to give their consent to sell land to settlers;¹⁹¹
- Christian migrants regularly take advantage of less literate Moro and indigenous peoples. 192

Institutional level Specific instrument or actor Individual or family Unfair modes of exchange Manipulation of the price for land

Events cited during the listening process

- · A hectare of land being exchanged for a can of sardines;193
- Some 25 hectares of land being exchanged for three bags of rice; 194
- Lands being exchanged for a can sardines or a stick of tobacco;
- Settlers manipulated land prices to secure property at grossly unjust rates, paying as little as Php 150.00 per hectare and Php 6.00 per m2 for indigenous lands. Setters also paid an average of Php 2.30 per m2 for land in Marawi City and in Saguiaran, Lanao del Sur. 196
- Listening process session in Barangay Laguilayan, Isulan, Sultan Kudarat on 26 March 2015. See also: Gulane, Judy T. January 2016. "Informal Land Market and Inequality in Maguindanao." HDN Working Paper Series. Available at: http://www.hdn.org.ph/wp-content/uploads/2016/08/JGulane-Informal-Land-Markets-and-Inequality.pdf (accessed on 28 December 2016).
- ¹⁹⁰Listening process session in Barangay Poblacion, Tampakan, South Cotabato on 21 May 2015.
- 191 Ibid.
- ¹⁹²Culled from the DCFs of the report on the Tawi-Tawi islands cluster, citing the listening process ses-sion in Barangay Tampakan, Simunul on 5 April 2015.
- 193 Shared by a T'boli participant during a listening process session conducted in Koronadal City on 20 May 2015.
- ¹⁹⁴ Listening process session in Tantangan, South Cotabato on 20 May 2015
- Listening process session in Barangay Poblacion, Alabel, Sarangani Province on 23 March 2015.
- ¹⁹⁶ Listening process session in Barangay Mipaga, Saguiaran, Lanao del Sur on 29 May 2015.

Conceptually, the categories laid out above are by no means definitive classifications of the Bangsamoro and indigenous peoples experiences of land dispossession. The categories, however, present an overview of state, corporate, and political instruments of land dispossession that spurred the marginalization of both peoples that the TJRC extrapolated from multiple accounts shared in the listening process sessions. Moreover, the categories show how government policies that are seemingly unrelated to land redistribution can result in multiple experiences of land dispossession and marginalization.

In some cases, government mechanisms for managing natural resources, such as the Integrated Forest Management Agreement (IFMA), were utilized to legitimize land "grabbing." In other cases, military forces and paramilitary units were deployed under the pretext of anti-insurgency or anti-secessionist operations, resulting in long-term, massive civilian displacement and conditions that favored land grabbing. Indeed, some listening process participants believed that coordinated military and paramilitary operations were carried out with the explicit intention of driving people away from their ancestral lands. Many of the original occupants who returned after years of displacement found their farms occupied by Christian settlers or titled by military officers. Moreover, paramilitary operations were often conducted during the harvest season, forming a regular pattern of seasonal armed intervention and civilian displacement in the conflict zones. On such occasions, displaced residents were forced to abandon their crops, which were then harvested by poachers.

In both cases, listening process participants shared the perception that private and corporate interest groups mobilized the government's security and natural resource management mechanisms to wrest control and gain possession of lands belonging to the Bangsamoro and indigenous peoples.

While the forms and experiences of land dispossession were extremely varied, one common factor has emerged as prevailing throughout, namely the disregard of the Bangsamoro and indigenous traditions concerning land ownership. The listening process results suggest that the dominant Filipino worldview

which rejects cultural diversity is partly responsible for this attitude. As a nationalist political ideology, it espouses Christian core values that are defined as "Filipino." With respect to the question of land ownership, it is insensitive to the deep sense of affinity to the land among the Bangsamoro and indigenous peoples, which serves as repository of their respective cultures and identities and which cannot be bought and sold as a commodity. The experience of land dispossession, as illustrated in the many examples related during the listening process, discloses the inherent tension between the core values of the Philippine majority population and its diverse Bangsamoro and indigenous constituencies.

The array of testimonies offered by the listening process participants underscores the Bangsamoro and indigenous experience of state-sponsored social exclusion associated with the dispossession of their ancestral lands. In their view, this collective experience signals the failure of the Philippine state not only to uphold minority rights, but also in addressing the root cause of their exclusion.

Text box 2: The Sama Dilaut and a distinctive form of "land" dispossession

Since time immemorial, the Sama Dilaut have lived a seafaring life across the waters straddling the Philippine, Malaysian, and Indonesian borders. In response to the question about land dispossession, Sama Dilaut participants were not able to answer directly. They explained that they had not experienced marginalization through land dispossession, because they do not reside on land on a permanent basis. While they require land as "mooring grounds," as ancestral burial sites, and for the seasonal planting of agal-agal (seaweed), they do not live a sedentary life like the other agriculture-based Bangsamoro groups. Despite their marine-based culture, the Sama Dilaut have also suffered dispossession. Sama Dilaut participants revealed that they had been attacked and forced to abandon their pondohan (or transitory settlements with agalagal farms) by armed Tausug men from Sulu. As a result, they lost their primary source of livelihood and were forced to seek employment on land, a process that could be characterized as "forced sedentarization." Consequently, some of the displaced Sama Dilaut now live as beggars, seeking alms as a means of surviving on land.

The above narrative is based on information shared by Sama Dilaut participants during listening process sessions in three different locations in Tawi-Tawi: in Barangay Sanga-Sanga, Bongao on 25 March 2015; in Barangay Doh Tong, Simunul on 7 April 2015; and in Barangay Pag-asa, Bongao on 5 May 2015.



3.4.1. Gender Dimensions of Land Dispossession¹⁹⁷

The relationship of the Bangsamoro and indigenous peoples to land is fundamental to their identity. Their communalist understanding of land ownership underpins their relations to one another and to the land on which they live and work. Everyone in the community with common ancestry collectively "owns" the land they occupy and has access to its resources. This traditional understanding of land stewardship has a clear gender dimension which favors men over women to serve as the custodians of the land. In spite of progress in gender equality in recent years, men remain the primary owners and administrators of land and property. This discriminatory practice is supported by customary law, where long-held traditions and norms set the standard of what is allowed and acceptable. With respect to indigenous women, for example, the native title recognized by Philippine law acknowledges communal ownership of land by the clan or the tribe to which the family belongs. Hence, with respect to native titles, the question is not simply whether indigenous women are able to own lands, but whether they are able to participate in the decision-making processes that their clan or tribe undertake in the exercise of their right as owners of the land. The gender dynamics within the clan or tribe defines the extent, if at all, of the participation of women.

In many cases, interest groups that succeeded in grabbing hold of Bangsamoro and indigenous lands have taken advantage of traditional patterns of land stewardship. Soldiers and land speculators familiar with these cultural patterns of stewardship exploited this arrangement by marrying Bangsamoro and indigenous widows and young women left orphaned by the war. Once married according to indigenous rites, the men then seized control of the lands by titling them under their names and thus dispossessing the kindred of those they married. The marriages did not necessarily protect the women as conjugal legal partners of the men, because the indigenous wedding rites were carried out without government marriage certification.

The fact that women have limited opportunities to own land and limited control over property makes them more vulnerable to the social,

¹⁹⁷ Parts of the following analysis are based on findings included in the TJRC report on land dispossession published in February 2017 under the title "Dealing with the Past and Land Dispossession in the Bangsamoro."

political and economic impacts of unjust land dispossession. This is particularly true when dispossession is accompanied by armed violence and followed by internal displacement. The situation is especially critical for Moro and indigenous women who are the single heads of households, either because their husbands have left to join a rebel group or because they have become widows. 198 In such cases, women may have no legal basis to assume the ownership of land that was held in their husband's name, as marriages often take place by means of traditional or customary rites without the benefit of government-recognized civil documentation or license. Likewise, the lack of a legal instrument showing ownership by the husband over the land works against his widow, as the land does not become part of the estate subject of legal succession. In addition, land dispossession has also gone hand in hand with the sexual exploitation of women. Aside from the example of deceitful marriage mentioned above, cases have been reported of displaced families who entrusted their daughters to traffickers in the expectation that their employment as domestic servants or as sex workers would compensate for the loss of livelihood due to internal displacement and land dispossession. 199

3.5. Healing and Reconciliation – Preconditions and Perspectives for the Future

The notion of "brokenness" (aptly captured in the Magindanawn term "lat a ginawa" or "broken self") sums up the painful consequence of years of social, political, and economic exclusion of the Bangsamoro. The sense of "brokenness" was expressed again and again during the listening process, as participants related their narratives of dispossession, neglect, and denial of their rights, including their right to exist as a people of distinctive identity.

¹⁹⁸ It is estimated that 10-20 percent of the most impoverished families in the ARMM are single-parent households headed by women, including war widows. See: Internal Displacement Monitoring Center (IDMC), Norwegian Refugee Council (NRC). October 2009. Cycle of conflict and neglect: Mindanao's displacement and protection crisis. Geneva, Switzerland: IDMC, NRC. Available at: http://www.internal-displacement.org/assets/publications/2009/200910-ap-philippines-cycle-of-conflict-and-neglect-country-en.pdf (accessed on 14 August 2015). (Cited in the TJRC Dealing with the Past Assessment; see footnote 11 above.)

¹⁹⁹ Cagoco-Guiam, Rufa. 2013. Op. cit. pp. 7-8.

Despite their grievances, some participants recognized the need for all parties to the conflict to work together for a common future. They acknowledged the pain and suffering that communities on all sides had experienced and noted the urgency to commence some process of reconciliation. Yet, most were uncertain as how to engage in such an undertaking. Indeed, many named specific preconditions that should be met before such a process could begin, but few had a notion of how to begin even if these conditions were to be met. This should not be surprising in a context in which armed conflict is still a reality. Yet, there are lessons to be learnt from other post-conflict contexts that have faced similar challenges, which are of value for the Bangsamoro.

One such example is South Africa, which ended the apartheid system of racial segregation and discrimination in 1994 and set up a Truth and Reconciliation Commission (TRC) in 1995 to investigate gross human rights abuses, including abductions, killings, and torture that had taken place over a thirty-year period between 1964 and 1994.²⁰⁰ Although the mandate and proceedings of the Commission were contested particularly by certain victim support groups because of its amnesty clause and of its failure to provide adequate reparations, it did provide a framework in which the abusive system of apartheid could be addressed on both an individual and collective level. Other prominent examples since then include the Commission for Reception, Truth and Reconciliation in East Timor, established in 2001 to deal with human rights violations in the period between 1974 and 1999,²⁰¹

²⁰⁰ The South African TRC was established by Act No. 34 of Parliament in 1995, known as the "Promotion of National Unity and Reconciliation Act". It set up three committees to implement its mandate: The Human Rights Violations Committee, the Reparation and Rehabilitation Committee, and the Amnesty Committee. Public hearings were held to address certain specific cases, at which victims and/ or perpetrators were able to testify. The final report of the TJRC was submitted in 1998, but the Commission remained in operation until 2002. A copy its final report is available at: http://www.justice.gov.za/Trc/report/index.htm (accessed on 14 December 2016).

²⁰¹ The Commission for Reception, Truth and Reconciliation (known commonly by its Portuguese acronym CAVR – Comissão de Acolhimento, Verdade e Reconciliação) was established as an independent commission under the auspices of the United Nations Transitional Administration in East Timor (UNTAET). Its mandate was threefold: 1) "Reception" ("acolhimento"): to facilitate the return and reintegration of displaced persons; 2) "truth" ("verdade"): to render a full account of human rights violations between 1974 – 1999 based on documentation and victim statements; and 3) "reconciliation" ("reconciliação")

and more recently the National Center of Historical Memory in Colombia, which is mandated to promote the right to truth and reparation for victims and to reconstruct the history of the armed conflict in that country.²⁰²

These are just some examples of official bodies that have been set up to grapple with the legacy of a violent past in an effort to promote reconciliation.²⁰³ The challenge facing these bodies and both those who support and those who criticize them has been formulated eloquently by Desmond Tutu, the former chairperson of the South African TRC:

There is no handy roadmap for reconciliation. There is no shortcut or simple prescription for healing the wounds and divisions of a society in the aftermath of sustained violence. Creating trust and understanding between former enemies is a supremely difficult challenge. It is, however, essential to address these issues in the process of building a lasting peace. Examining the painful past, acknowledging it and understanding it, and above all transcending it together, is the best way to guarantee that it does not—and cannot—happen again." ²⁰⁴

through the reintegration of low-level offenders into their communities. The final report of the CAVR was submitted to the President of East Timor in October 2005 and subsequently handed over to the UN Secretary General in January 2006. A copy the final report, entitled "Chega!" or "Enough!", is available at: http://www.cavr-timorleste.org/en/chegaReport.htm (accessed on 18 December 2016).

²⁰² The National Historical Memory Center (Centro Nacional de Memoria Historica CNMH) was established to collect all documents and oral testimonies relevant to the human rights violations covered by Article 147 of the Law on Victims and Restitution of Land. It is the successor body to the Center for Historical Memory, which was created by the Justice and Peace Law of 2005. The CNMH has produced a number of reports relating to the armed conflict that are available at: http://www.centrodememoriahistorica.gov.co (accessed on 18 December 2016).

²⁰³ For an overview of some of the truth-seeking mechanisms that have set up in the past two decades, see: Hayner, Priscilla. 2011. Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions. London: Routledge. 2d edition.

²⁰⁴ From the address of Bishop Desmond Tutu during the launch of the South African Truth and Reconciliation Commission (TRC), as quoted in: Bloomfield, David, Teresa Barnes and Luc Huyse, eds. Reconciliation After Violent Conflict. A Handbook. 2003. Stockholm: International Institute for Democracy and Electoral Assistance (International IDEA).



The questionnaire prepared for the listening process did not propose the creation of any particular mechanism to address the issue of healing and reconciliation. Instead, it left the guestion open for the participants to ponder and formulate their own recommendations. The questionnaire was framed in such a way that the participants were encouraged to express their own understanding of what healing and reconciliation might entail in their own communities, including the conditions on which it should be based. Not surprisingly perhaps, many of the responses were negative and focused on obstacles rather than on opportunities. In the aftermath of the tragic events in Mamasapano and during the heated debate on the BBL, the conditions were simply not yet in place that would enable the participants to envision a process of healing and reconciliation. In the following an attempt will be made to characterize the responses of the participants in general terms, while at the same time reference will be made to specific proposals to promote healing and reconciliation on the community level.

The need for peace and security

In general, the participants expressed a strong need for peace and security, to live without the fear that at any time someone might enter their community to arrest and torture or even slaughter them. They do not want to relive the painful experience of having to abandon their homes and fields and flee overnight to escape from a gun battle or a military offensive.

During one listening process session in Lanao del Norte, it was emphatically stated that all forms of armed violence in the area would have to stop in order for them to begin rebuilding their lives and to repair relationships with other communities. In particular, participants argued that military patrols would have to cease and military installations be removed from their communities. They believed, moreover, that the mechanisms created by current peace agreement could provide the framework necessary for healing and reconciliation to take place—once the presence of armed men in their communities is removed.²⁰⁵

The removal of the threat of armed violence was a *conditio sine qua non* for healing and reconciliation voiced by many participants. Aside from government troops, this also included the various non-state armed groups who serve political and other vested interests as well as local armed provocateurs and spoilers who engage in criminal activities. The threat posed by those who practice violence in the form of *rido* was also mentioned. Progress in this regard would enable them to enjoy an atmosphere of safety and security in their homes and surroundings and would, in turn, provide the conditions for them to engage in a meaningful dialogue about the future with their former adversaries.

Acknowledgment of victimhood and respect for dignity

Some listening process participants who underscored the importance of reconciliation premised their support on the understanding that their people have been the principal victims

²⁰⁵ Listening process sessions held in two locations in Lanao del Norte: In Barangay Abuno, Iligan City on 18 March 2015 and in Barangay Napo, Linamon on 19 March 2015.

of the conflict, whether as the object of various forms of human rights abuse, as displaced persons, or as the victims of massacres and land grabbing. The cumulative effect of that traumatic experience is such that the sight of armed men gathering in their communities or even the sound of gunfire is enough to cause them to flee for their safety.

Other participants, particularly among the indigenous, suggested that the healing process could begin on an individual level based on the condition that each person is accorded the respect and dignity due to him or her as a member of a community with a distinct identity. During a listening process session in the town of Esperanza, Sultan Kudarat, the indigenous participants drew up a list of preconditions for healing and reconciliation, which they formulated as follows:

...delineation of our ancestral lands through a Certificate of Ancestral Domain Title (CADT); if our lands will be returned to us; if there is no more discrimination and oppression and we will be respected as a people of distinctive identity; if the grabbing of our lands will stop....²⁰⁶

Significantly, the acknowledgment of their dignity and integrity as human beings and respect for their respective cultures and history as a condition for healing and reconciliation was a sentiment shared by the Bangsamoro and indigenous peoples across all the 211 listening process sessions in the 15 provinces that the facilitation teams visited.

A viable political framework needed

For many of the Bangsamoro participants in the listening process, the passage of a basic law (at that time, the BBL) was the essential precondition for a process of healing and reconciliation to begin among the communities affected by the conflict.²⁰⁷ In this regard, it is important to underline the fact that they did not expect the basic law to serve as a panacea that would address all the multifarious grievances of the Bangsamoro. Rather, they regarded it as a

²⁰⁶ Listening process session in Barangay Ala, Esperanza, Sultan Kudarat on 19 May 2015.*

²⁰⁷ See footnote 13 above.

starting point on the long journey toward durable peace—not only in their communities, but throughout Mindanao and the rest of the Philippines.

Other participants, however, were more skeptical and offered dissenting opinions about the possibility, based on a basic law, to effect meaningful change and to address the diverse forms and drivers of armed conflict in Mindanao. Participants in Tawi-Tawi were pessimistic about the prospects that any agreement forged by the MILF and the GPH would spur favorable new development opportunities for the impoverished communities of the Bangsamoro. As one former combatant exclaimed, "Healing is no longer possible, because the patient (referring to the peace process) is already dead!"²⁰⁸

Some indigenous participants of the listening process in Central Mindanao expressed similar views, but offered their support if the proposed law explicitly included a provision upholding the rights of the indigenous peoples. Their long experience of discrimination at the hands of both the Philippine government and some segments of the Bangsamoro population made them critical of the provisions to empower the Bangsamoro enshrined in the BBL.

The importance of truth seeking

A number of listening process participants stated that the listening process had actually started a process of healing by providing them with an opportunity to share their experiences and their hope for reconciliation. They believed that if other conflict-affected communities also had the opportunity to engage in a similar process of listening, they might all be able to begin the long and difficult journey of healing and reconciliation.

The culturally diverse landscape of the Bangsamoro region presents a formidable hurdle for truth seeking. The diversity of ethnic backgrounds, of traditional ways of life, and of world views suggests a manifold interpretation of current realities and historical

²⁰⁸ Listening process session in Barangay Pahut, Bongao, Tawi-Tawi on 19 March 2015; most of the participants identified themselves as members of the Moro National Liberation Front (MNLF).*

experience, resulting in conflicting versions of the "truth." The slaying of a group of Moros by government troops at a military checkpoint in Tacub, Lanao del Norte in November 1971 is a case in point.²⁰⁹ Whereas Meranaw-speaking participants characterized the incident as a "massacre," Cebuano-speaking participants insisted that the soldiers had merely returned fire following a provocation.²¹⁰ One could hardly expect communities recovering from a long period of violent conflict to agree on a common version of truth given the painful impact that the violence has had on both sides. The Tacub example suggests that disparate versions of the same incident of violence must be expected because different communities frame reality in ways that reflect their different socio-cultural backgrounds and historical experience. On the contrary, rather than treating incongruous versions of an event as an aberration or an obstacle, dissimilar ways of viewing reality should be used as a resource in seeking alternative forms of conflict resolution. Indeed, without ignoring the fact of injustice and putting victims and perpetrators on the same plane, it is important to recognize that each party to a conflict may have its own narrative. Several conflicting narratives can, in fact, exist side by side without necessarily excluding one another.211

²⁰⁹ Allegedly some 40 Moros, who had been issued safe conduct passes to return to their homes to vote, were fired upon and killed by government troops in the barangay of Tacub, Kauswagan. An investigation of the incident undertaken by the National Bureau of Investigation resulted in charges being brought against 21 members of the military and three civilians, including the local mayor. The charges against the three civilians and five of the soldiers were eventually dropped, while the other cases never went to trial. In this regard, see: Robert D. McAmis. "Muslim Filipinos: 1970-72." Pp. 48-49, 51. In: Peter G. Gowing and Robert D. McAmis, eds. The Muslim Filipinos: Their History, Society, and Contemporary Problems. Manila: Solidaridad Publishing House. 1974.

²¹⁰ Listening process session in Barangay Tacub, Kauswagan, Lanao del Norte on 21 March 2015. Some participants suggested that the military offensive by the MILF in the area in 2008 may have been motivated by a desire to avenge the Moro victims of the Tacub massacre.

²¹¹ An interesting example of contested truth is provided by a school history book project in Israel and Palestine. Israeli and Palestinian junior high school students tested a history book which provides two different narratives (from the perspective of their two communities) of the same series of historical events in Israel and Palestine. The narratives of the events are printed in two parallel columns with an empty space between; in the middle of the page, the students could add their own interpretation or version of the events. Further information available at: https://vispo.com/PRIME/ (accessed on 10 December 2016).



The long history of armed conflict in Mindanao suggests that all sides must come to grips with this fact that various and conflicting narratives of the "truth" do exist. In pursuit of "narrative truth," however, there is first and foremost a need to develop an understanding for the narrative of those who have been excluded and whose history has been maligned, denied, and excluded from the national consciousness.

The linkage between justice and reparations

There was a consensus among participants in the listening process about the need for justice. Those who have suffered as a result of social exclusionary policies and have been victims of atrocities should be able to seek redress as individuals, as families, and as communities. In particular, they demanded punitive justice against those responsible for the perpetration of human rights violations. While they recognized the value of fact finding, they also saw the need to rigorously investigate all the reported incidences of human rights violations with a view to hold perpetrators accountable.

At the other end of the justice divide, some participants asserted that it was useless to call for "blood" revenge, a form of punitive justice common between families in cases of rido and by extension to combat situations with government and paramilitary forces. They argued that no amount of revenge will bring their dead ancestors or family members back to life. As an alternative, they suggested that some form of reparations on the part of the government would be more appropriate. Providing basic social services adequate to the needs of the communities that were the object of human rights violations, for example, and ensuring that the children of the victims receive scholarship opportunities and subsistence funds were seen as proper measures.²¹²

In some contexts, the payment of so-called "blood money" (known as diat among the Meranaw) is practiced as a form of compensation for the death of a family member. Participants of the listening process in Sulu believed that this would assuage the hurt feelings of the victims, but those who attended sessions in Tawi-tawi cautioned against such an approach on the grounds that a few wealthy and politically influential families tend to abuse their power and authority by committing crimes against ordinary people. In such cases, the practice of paying blood money inadvertently favors the rich, who believe that they can abuse the rights of others simply because they can "pay" for such transgressions. In the view of those participants, this practice actually promoted impunity, rather than curtailing it.²¹³

In rejecting revenge as an option, participants also raised the question of forgiveness. They cited Biblical and Qur'anic references to forgiveness and questioned, "If God can forgive, why can't we?" But they also insisted on the caveat that forgiveness should not mean forgetting the injustices and oppressive acts committed against their families and relatives. Moreover, some

²¹² From the DCFs of the listening process conducted in Balo-i, Lanao del Norte on 10 May 2015 and also mentioned in the listening process sessions held in Zamboanga City and other parts of Zamboanga del Sur.

²¹³ From the DCFs of listening process sessions conducted in different barangays in Bongao, Tawi-Tawi: Barangay Sanga-Sanga on 25 March 2015; Barnagay Tubig Boh on 26 March; 2015, Barangay Nalil on 27 March 2015; Barangay Poblacion on 25 April; and Barangay Bakud Mahabah on 29 April, 2015.



participants argued that reconciliation can be promoted when there is a framework for dialogue between community members and government authorities.

Other participants recalled the economic damage inflicted during the period of Martial Law when the assets of Bangsamoro businesspersons were targeted for arson and pillaging. They claimed that the process of healing and reconciliation also required government authorities to initiate infrastructure and social development projects, especially for hard to reach, isolated areas of the Bangsamoro. In more general terms, participants mentioned the need for supportive policies toward entrepreneurship and inclusive employment policies as important ingredients for post-conflict recovery.

There were participants, however, who argued that no amount of livelihood support or financial assistance to conflict-affected communities would be able to create an enabling environment for sustainable peace. They stressed that the long years of destructive armed conflict in their areas had made them feel less human. Indigenous participants, in particular, complained that they had become even more vulnerable to discrimination and were commonly referred to as "dull" and "ignorant" in ethnic jokes and anecdotes about them. Indeed, for some, the painful memory of the past posed an insurmountable obstacle to reconciliation. As one participant noted, "It is not [as if we can take] a pill that will make our headache go away." In this regard, a former combatant commented with bitterness, "Nothing can heal my pains."²¹⁴

Return of displaced persons

Divergent opinions were expressed concerning the return of displaced persons to their places of origin. Some participants hesitated to support calls for communities displaced for decades to return to their original locations, suggesting that such an undertaking would only evoke pain and "bad memories." Others, however, argued that the process of return needs to be done as part of and in consonance with the truth telling, reparations, and post-conflict reconstruction.²¹⁵

Need for memorialization

A number of participants drew attention to the importance of memorialization as a means of honoring the suffering of the Bangsamoro and indigenous peoples. In particular, they referred to specific traumatic events that have left their mark on their communities. Among the examples mentioned by survivors and their families was the need to preserve the sites and relics of the atrocities committed under Martial Law. In this way, a coherent story could be reconstructed as to how and why the atrocities unfolded. In their view, preserving the story and the material evidence for future generations would sustain the process of healing and reconciliation. They argued, however, that memorialization should be pursued with caution and be based on proper, meticulous fact finding. More importantly, memorialization should aim at forging a culture of acknowledgment,

 $^{^{214}}$ Listening process session in Barangay Mentring, Maigo, Lanao del Norte on 22 May 2015.*

²¹⁵ Listening process session in Poona Piagapo, Lanao del Norte on 1 April 2015.*

dignity, and respect, while avoiding the promotion of hatred, revenge, or violence against the perpetrators and their descendants.

Guarantees of non-recurrence

Widespread corruption and the patronage system were specifically mentioned as impediments to healing and reconciliation. Most Bangsamoro participants viewed the passage of a basic law as an important step towards strengthening the rule of law and combatting impunity in Mindanao and the Sulu archipelago. In this regard, they saw the need for wide-ranging structural reforms in government institutions, especially in the security sector. Stronger laws, including laws regulating firearms, should be put into place and implemented in order to counter the influence of criminals and the impact of illegal economies on local communities.²¹⁶

Participants cited the need to empower ordinary citizens to demand good governance practices from elected and appointed officials. In addition, they called for local government units to cooperate with local civil society organizations in developing pragmatic policies that would promote peacebuilding on all levels of society, ranging from the barangay to the provincial level.²¹⁷

On their part, indigenous participants in the Autonomous Region in Muslim Mindanao (ARMM) lamented the non-implementation of the Indigenous Peoples' Rights Act (IPRA) and the non-devolution of the National Commission on Indigenous Peoples (NCIP) in the ARMM region.²¹⁸ They regarded the delineation and recognition of their ancestral lands and domain as a necessary act to prevent further land grabbing and to enable them to live peacefully on their lands in the future.

²¹⁶ Raised as an issue during several listening process sessions conducted in Barangay Nalapaan, Pikit, Cotabato on 9 April 2015; in Barangay San Mateo, Aleosan, Cotabato on 10 April, 2015; and in Barangay Poblacion 5, Midsayap, Cotabato on 10 April 2015.

²¹⁷ Listening process session in Kabacan, Cotabato on 8 April 2015.*

 $^{^{218}}$ The Office of Southern Cultural Communities (OSCC) is the body responsible for promoting the welfare of the indigenous peoples (mostly Teduray, Teduray-Lambangian) in the ARMM.



Promoting Healing and Reconciliation

Beyond the numerous preconditions to be met and despite a strong skepticism in some parts, participants in the listening process did name a number of positive steps that could be taken to promote healing and reconciliation in their communities. These include measures that highlight examples of power sharing and harmonious relationships in the past. Other examples emphasized the role of education in developing conflict resolution skills and, more broadly, a culture of peace.

Examples of power sharing

In the towns of Sapad and Salvador in Lanao del Norte, local government authorities have put 50-50 percent power-sharing agreement into place in an effort to foster tolerance and understanding among residents of differing religious and ethnic backgrounds. Positions in the municipal council are shared equally between elected representatives of Meranaw and Visayan origin.²¹⁹ Participants reported that this policy has significantly

²¹⁹ Listening process sessions in Salvador, Lanao del Norte on 21 May 2015 and in Sapad, Lanao del Norte on 27 May 2015.



reduced tensions and misunderstandings and has nipped conflicts in the bud on a number of occasions.

Indigenous participants explained how they had developed and put into practice an unconventional means of promoting healing and reconciliation in the upland communities of Lanao del Norte and Bukidnon. One Higaonon participant described their approach as follows:

One way for the tribe to achieve peace and serenity is to appoint as datu a person who has been a menace to the community.... [By] bestowing the title of datu upon him, he is under pressure to change [and act] according to what is expected of him as a datu. Then the people in the community will also be afraid to create or bring trouble, because they know of the datu's capabilities..."²²⁰

Examples of harmonious relationships

Certainly, the most famous example of a harmonious relationship in the past between Moros and indigenous peoples in Mindanao is the story of the two brothers, Tabunaway and Mamalu.²²¹ Listening process participants noted the importance of returning to the narrative of the pact between the two brothers as a paradigm for relationships today. In this regard, they outlined the model character of the relationship by highlighting the following five points of agreement between Mamalu and Tabunaway:

- 1. Recognition and acknowledgment of each other's distinct territories;
- 2. Recognition of and respect for each other's distinctive identity and culture;
- 3. Recognition of a sibling relationship among their descendants;
- 4. Maintenance of fair trade relations among their descendants;
- 5. Cooperation in the fight against common enemies.²²²

Meranaw and Cebuano Visayan-speaking settlers in Lanao del Norte suggested that the writing of local histories that draw attention to the harmonious relationship between Meranaw and Visayan peoples that existed in the past, especially before Martial Law, would be a useful tool in promoting reconciliation.²²³

A further example proposed by participants concerned the innovative use of early warning and early response mechanisms not only to monitor violent incidents, but also to reinforce existing informal social control strategies in the communities as a means of conflict prevention and, in this way to promote, an enabling environment for healing and reconciliation.²²⁴

²²⁴ Listening process sessions in the municipalities of Tagoloan, Poona Piagapo and Baloi, Lanao del Norte from 31 March 2015 – 2 April 2015.

²²¹ See footnote 101 above.

²²² Listening process session in Barangay Rosary Heights 4, Cotabato City on 25 March 2015.

²²³ Culled from the DCFs of listening process sessions in various locations in Lanao del Norte: Barangay Abuno, Iligan City on 18 March 2015; Barangay Napo, Limanon on 19 March 2015; and Barangay Poblacion, Matungao on 20 March 2105.

Promoting social skills and a culture of peace

Listening process participants stressed the role of education as a vehicle for social transformation in conflict-affected communities. They believed that introducing a curriculum in local schools which celebrates diversity and promotes pluralism and multiculturalism would be an important resource for learning the social skills necessary for peacebuilding. They also emphasized that such skills would be needed to ensure a more inclusive, multi-stakeholder approach in the promotion of healing and reconciliation. In their view, local government units, civil society, religious leaders, the academe, and even the security sector should be engaged at various levels in the conduct of peace advocacy forums.²²⁵

Participants in various listening process sessions in Central Mindanao suggested that the promotion of a culture of peace at all levels in society would support the efforts toward healing and reconciliation.²²⁶

In addition, participants noted that a program of psychosocial intervention is needed to address the traumatization of individuals, families, and whole communities brought on by (repeated) exposure to (the threat of) violence and other dangers during the decades of conflict. By addressing deeply embedded pains and animosities, they believed that such a program would enable the beneficiaries to find some closure concerning what happened to them and their loved ones in the past.²²⁷

3.5.1. Gender Dimensions of Healing and Reconciliation

Decades of armed violence have had a deep impact on gender roles and relationships among the Bangsamoro and indigenous peoples. Creating enabling and lasting conditions for peace requires a careful assessment of this impact, which may have long-lasting consequences in affected communities.

²²⁵ Listening process session in Kabacan, Cotabato on 8 April 2015.

²²⁶ From the DCFs of listening process sessions conducted by the Central Mindanao team at various locations in Cotabato, North Cotabato, and Sultan Kudarat, e.g. in Barangay Poblacion, Tulunan, Cotabato on 10 March 2015; in Barangay Nalapaan, Pikit, North Cotabato on 9 April 2015; in Barangay San Mateo, Aleosan, Cotabato on 10 April 2105; and in Barangay Bual, Isulan, Sultan Kudarat on 18 April 2015.

²²⁷ Listening process session in Poona Piagapo, Lanao del Norte on 1 April 2015.

One traditional male role model, which has in fact been strengthened during the years of conflict, is the figure of men as warriors and martyrs. In its current form, this role model may prove to be an obstacle to the transition to peace. Indeed, listening process participants raised concerns about the prevalence of a culture of violence and the effect that it has upon the younger generation. Some, as noted above, associated a culture of violence with criminal elements and drug trafficking and expressed fears about the presence of groups of armed young men in their communities.

For non-combatant men forced to seek refuge in evacuation camps during armed clashes, the conflict has clearly had a damaging effect of their sense of self-worth as the protector and main provider of their families. In such situations, men express sorrow and bitterness due to a loss of face. Not only have they failed to protect their families and, in many cases, lost their livelihoods, but they have exposed their families to the dangers of forced displacement and life in evacuation centers, in which many women and girls are known to fall prey to traffickers.²²⁸

Decades of war has had an equally strong effect on the role and self-understanding of women. In some cases, this effect has also had positive consequences. Women have learned to navigate in the public spaces left behind by their husbands who are fighting in the war. They assume productive roles, take major decisions, and generate income and a stable livelihood for their families. However, war widows are often left to fend for themselves more or less permanently and become heads of their households. This segment of the population, i.e., single-parent households headed by women, is classified as the poorest sector of society in the ARMM.²²⁹

Some participants cited the active participation of women in society as a factor that could contribute to healing and reconciliation. In particular, they mentioned the role of women as effective mediators of low-level conflicts in the barangays and suggested the institutionalization of Municipal Reconciliation Committees comprised

²²⁸ This is highlighted in the focus group discussions with male IDPs in Sarangani Province. See: Cagoco-Guiam, Rufa. 2013. Op. cit.

²²⁹ See footnote 198 above.

primarily of women who have shown commitment and skills in defusing conflicts.

One area of concern that was only marginally discussed and requires a more thorough examination is the question of the traumatic impact of decades of conflict and its potential (negative) effect on the prospects for future reconciliation within and among communities. Female participants from indigenous communities expressed a need for "safe spaces" for them to share their stories of pain and suffering without fear and hesitation. At the same time, as noted above, the bitterness expressed by some former combatants was such that they believed that no healing was possible.²³⁰ In fact, although conflict-related violence has affected the physical and mental health of communities for the last forty years, there have been no long-term studies of the impact of the conflict on the health and wellbeing of the conflict-affected population in Mindanao. The studies that have been undertaken have focused almost exclusively on health issues associated with internal displacement. In this regard, there has been some progress in recent years. Initiatives have now been undertaken to integrate mental health services into primary care for displaced populations.²³¹ But clearly, this is a matter that must be addressed more systematically, as it will have consequences on the ability of the Bangsamoro and indigenous peoples to confront the legacy of violence in their own communities.

²³⁰ See footnote 214 above.

²³¹ During the displacement crisis that followed the renewal of violence in Mindanao in August 2008, psychologists working in mobile clinics provided psychological first-aid treatment, brief psychotherapy sessions, and a referral service for severe cases. See: Mueller, Yolanda et al. Integrating Mental Health into Primary Care for Displaced Populations: The Experience of Mindanao, Philippines. In: Conflict and Health. 2011. 5,3. Available at: http://www.conflictandhealth.com/content/5/1/3 (accessed on 22 July 2015). The above information is drawn from the TJRC Dealing with the Past Assessment (see footnote 11 above).



4 THE BANGSAMORO OPPORTUNITY: CONCLUDING REFLECTIONS

In many ways, the listening process has proved to be the heart and soul of the TJRC engagement on behalf of its mandate. The TJRC mandate was not only a technical exercise designed to elicit information by conducting consultations, assessments, and surveys. Indeed, much of this information already exists and was accessed by research undertaken by the TJRC study groups and through the key informant interviews. As part of the normalization process, however, the TJRC was also mandated to propose interventions that could address the "physical, mental, and spiritual wounds" of the Bangsamoro people. This was certainly the most challenging demand placed on the work of the TJRC, as it touched upon the human dimension of the conflict and required attention to the personal and collective tragedy of pain and suffering over generations and to the potential for healing and renewal.

In this regard, the TJRC listening process proved to be both conflict-sensitive and innovative in its approach of providing a safe and confidential forum to elaborate and discuss the narratives of conflict-affected communities in ways that complemented other efforts undertaken by the TJRC. Through the listening process, individual and collective accounts of loss of life and livelihood and of humiliation and discrimination were elicited that placed a human face on legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. In doing so, the TJRC could sense an urgent need on the part of

the participants to tell their stories and have them publicly acknowledged. In fact, the experience has shown that many more people are yearning to be heard and to offer their narratives as survivors. In view of its limited time frame and resources, however, the TJRC was only able to scratch the surface in an effort to uncover the deeper layers of violence, impunity, and neglect in what might be called an "archeology of conflict" in the Bangsamoro.

The listening process also informs us how a solid approach to dealing with the past may strengthen the peace process. Both methodologically and substantively, the listening process has been in itself an achievement in that regard. It has not only brought out many unheard voices from communities throughout Mindanao and the island provinces, but it has also encouraged conflict-affected communities to engage in the design and development of recommendations to address the legacy of past in future-oriented manner. The impression that remains is that the listening process is a viable model to motivate communities, both as social subjects and as survivors, to participate in the further development and implementation of transitional justice initiatives

At the same time, the listening process sheds a sobering light on the potential for sustainable peace. An honest appreciation of the findings must acknowledge the fact that there are still many obstacles to be faced in addressing the subject matter of the TJRC mandate, and that a culture of violence has arisen that is resistant to the peaceful resolution of conflict. Without a substantial effort to secure a solid legal framework that upholds people's rights and the duty of the state to respect and protect them, significant change in the political, social, and economic status quo is unlikely. In this case, the opportunity for healing and reconciliation in the Bangsamoro may be lost and those participants in the listening process who voiced skepticism of the peace process will have the last word.

Nevertheless, despite all the obstacles still to be faced, most of the participants do share a clear vision of hope for the future and have proposed a number of feasible steps to be taken in that direction. This is perhaps the strongest message that underlies the TJRC recommendation to establish a National Transitional Justice and Reconciliation Commission for the Bangsamoro. In addition, many of the 90 separate recommendations formulated by the TJRC March 2016 report are based on concrete proposals made by participants in the listening process.²³²

In general terms, the significance of the findings of the listening process for transitional justice can be summarized as follows:

- Acknowledgment: The Bangsamoro and indigenous peoples demand acknowledgment of their right to exist as peoples with their own separate ethnic and religious identities and proud histories. They ask that the facts pertaining to the decades of human rights abuse and to their dispossession from the land of their ancestors be established. They want to know what happened, who was responsible, why it happened and for what purpose. They believe that they should be part of the effort to establish those facts. Only after the facts have been established and acknowledged would it be possible to address the matter of apology and forgiveness.
- Accountability: The Bangsamoro and indigenous peoples call for an end to impunity. Political authorities on all levels must assume their responsibility and put a legal framework into place that guarantees accountability for crime and corruption and which protects citizens from vigilante and state-sponsored violence. This is a conditio sine qua non, which will provide them with the measure of safety necessary to rebuild their communities and enable them to pursue their livelihoods in an atmosphere of peace and security.
- Restitution: The Bangsamoro and indigenous peoples demand that those lands which have been unjustly acquired be restituted to them or, if this is not possible, that adequate compensation be given. They insist that development assistance be shared equally among those communities in need and they be consulted in the design and implementation of development projects. Furthermore, they must have access to adequate and affordable medical care,

²³² See: "Part II. Specific recommendations for further discussion and implementation on dealing with the past, healing, and reconciliation." In: TJRC March 2016 Report, pp. 79-92 (99-115).

including psychosocial support services, and their children must have an opportunity to learn about the history of their own peoples in their school curricula and through local history initiatives.

• Autonomy: The Bangsamoro and indigenous peoples claim their right to self-determination through a basic law that guarantees them autonomy within the framework of the Philippine constitution. Once established, their autonomous government shall ensure that the new legal and institutional framework adheres to the rule of law and that all citizens shall have equal access to justice as an effective, nonviolent means of recourse to resolve disputes. Institutional reform, moreover, shall promote more equitable power-sharing arrangements as a means of regulating class conflicts, reconciling societal fragmentation along ethnic and religious lines, and promoting economic development.

Their message is directed to national, regional, and local government authorities, to the armed forces and other members of the security sector, to civil society and the private sector, and to the Philippine people at large. They address their appeal, moreover, to all non-state armed actors involved in the peace process, especially to the leadership of the MILF.

In specific terms, the listening process elicited many proposals that were later formulated as recommendations in the TJRC March 2016 report. In particular, the 90 recommendations on dealing with the past are an example of what can and shall be done as part of a "whole of government and society" approach to address issues associated with the TJRC mandate. While the TJRC did not ask the communities whether they were in favor of this or that transitional justice mechanism, they were asked to describe what needed to be done and how it should be dealt with—in their own words and representations. The TJRC then analyzed these responses in light of the DWP framework, and it was these findings that were presented to the community representatives during the validation workshops in December 2015.



Conditions for a national transitional justice and reconciliation mechanism

As past experience in the Philippines and elsewhere has shown, it is not enough to produce a report with recommendations in order to draw a line under the past. There is a need for a strategic plan with an appropriate legal framework and the necessary political will to implement it. This was the overall consensus of the TJRC and the rationale behind its call for the creation of the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB) among the other recommendations made in its March 2016 report.

The TJRC introduced the idea of creating a national transitional justice and reconciliation mechanism in general terms during the validation workshops in December 2015. The question was the subject of a longer discussion among the participants. A number of the points raised focused on the conditions necessary for such a commission to operate successfully. Some few observations made at that time are worth mentioning here, as they reflect concerns raised among the participants.

The following conditions were considered by the participants as essential to the success of a future national mechanism on transitional justice and reconciliation.

- a. A national transitional justice and reconciliation mechanism shall be established as a result of a joint decision by the parties to the peace process. This underlines the fundamental issue of joint ownership, a key factor that will lend credibility to the mechanism among all concerned stakeholders and will grant it the legitimacy needed to fulfill its mandate. The autonomy of the mechanism must be ensured as well.
- b. It shall be led by Philippine nationals, of whom a majority are of Bangsamoro ancestry. The members appointed to direct the mechanism shall be figures of the highest moral integrity and known independence, with the professional experience and authority to generate confidence and cooperation among all involved parties for highest impact on the ground to be attained;
- c. It shall be guided by a comprehensive, inclusive, and gender-sensitive approach to dealing with the past. This means that the mechanism shall develop a single nationally owned, strategic plan that includes a combination of measures to ensure truth seeking, judicial accountability, reparations, and institutional reform in the future Bangsamoro region. Furthermore, it shall engage with all concerned stakeholders in implementing its mandate, while paying particular attention to the needs of women and children:
- d. It shall address the root causes of the conflict through a series of short-, medium-, and long-term measures designed to address legitimate grievances, historical injustice, human rights violations, and marginalization through land dispossession. In addition, the mechanism will need the requisite legal powers to enforce its mandate and the flexibility to review and adjust its operations in accordance with the changing situation on the ground;

e. It shall report regularly to its mandatory body and to the public on its activities and undergo monitoring by civil society organizations.

On a final note, the listening process has revealed a society deeply wounded and divided by decades of violent conflict and patterns of historical injustice and land dispossession that reach back to the colonial era. This is a fact that needs acknowledgment. At the same time, it also brought to light communities which are eager to move beyond past grievances in an effort to forge a common future based on mutual respect for the dignity of all its members. They are poor and they are tired of war and displacement. They do not want any more words. Instead, they demand the resolute decision making that would enable them to reestablish relations on the basis of a new political framework. It is their hope that they can finally experience some form of closure and that opportunities for healing and reconciliation will then develop. This hope is linked to a future dialogue that must take place between the Philippine government and the future Bangsamoro authorities, and among the Bangsamoro, indigenous, and Christian communities among themselves.



ANNEX 1

I. The TJRC Recommendations

The TJRC produced two sets of recommendations that were outlined in its March 2016 report.

One set of recommendations focused on the creation of a national mechanism: **The National Transitional Justice and Reconciliation Commission on the Bangsamoro** (NTJRCB). ¹

The overall mandate of the NTJRCB shall be to implement the dealing with the past framework, to promote healing and reconciliation, and to ensure that its four separate Sub-Commissions in cooperation with relevant existing institutions and actors undertake following tasks:

- To realize public and confidential hearings with the participation of victims of the conflict, to investigate serious violations of international human rights and international humanitarian law, and to implement remedies;
- To contribute to the resolution of outstanding land disputes in conflict-affected areas in the Bangsamoro, to address the legacy of land dispossession, and to implement remedies;
- To contribute to the dismantling of impunity, the promotion of accountability, the strengthening of the rule of law in relation to past and present wrongdoings, and to implement remedies;
- To promote healing and reconciliation among the different communities affected by the conflict.

¹ Concerning the mandate and operational framework of the NTJRCB, see: TJRC March 2016 Report, pp. 74-79 (92-99).

The other set of recommendations outlined 90 specific recommendations related to dealing with the past, many of which derived from proposals made during the TJRC listening process.2 These recommendations are directed to government and semi-government agencies, including local government units, as well as to civil society and the private sector. Existing state institutions and non-state organizations can implement the TJRC recommendations by mainstreaming them into their current programs and operations and by cooperating with the proposed NTJRCB. The recommendations are categorized according to the four pillars of the dealing with the past framework, namely the right to know, the right to justice, the right to reparation, and guarantee of non-recurrence. The spirit of these additional 90 recommendations reflects the profound awareness that processes of dealing with the past, healing, and reconciliation are essential endeavors that entail the continuous engagement of the "whole of government" and all sectors of society.

II. Detailed TJRC Recommendations

All recommendations take gender and cultural sensitivities into consideration and be informed by a perspective that promotes healing and reconciliation.

Part I Establishing a National Transitional Justice and Reconciliation Commission on the Bangsamoro

A. Recommend to the President the creation of a National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB) that shall oversee and support the operations of four Sub-Commissions named below, ensure the implementation of the 'dealing with the past' framework, and promote healing and reconciliation.³

² Concerning the formulation of the 90 specific recommendations, see: TJRC March 2016 Report, pp. 79-92 (99-115).

³ For the full text of the TJRC recommendations, see: TJRC March 2016 Report, pp. 74-92 (92-99).

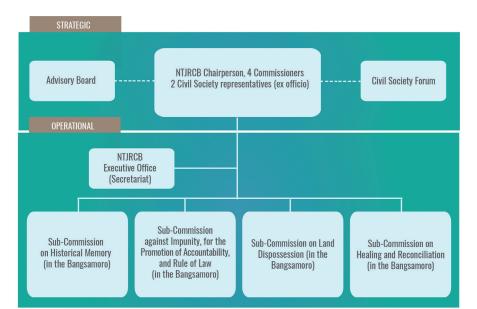


Figure 3. Structure of the NTJRCB and its Sub-Commissions

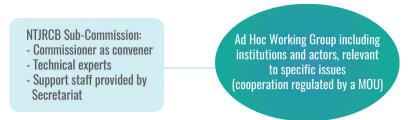
- 1. The **overall mandate of the NTJRCB** will be to ensure that the following tasks are implemented by the four Sub-Commissions named below in cooperation with relevant institutions and actors:
 - a. To listen to the victims of the conflict, to investigate serious violations of international human rights and international humanitarian law, and to inquire into specific events of the war;
 - b. To contribute to the resolution of outstanding land disputes in conflict affected areas in the Bangsamoro and to address the legacy of land dispossession with concrete measures to provide redress;
 - c. To engage in the struggle against impunity, by promoting accountability and strengthening the rule of law in relation to past and present wrongdoings, including crimes identified under the Rome Statute

and under international conventions to which the Philippines is a signatory;

- d. To promote healing and reconciliation among the different communities affected by the conflict.
- 2. The composition of the NTJRCB shall be based on the following criteria:
 - a. The NTJRCB shall be composed of Philippine nationals of the highest moral integrity and known in dependence with a high degree of professional competence and expertise in the area of their respective mandates.
 - b. The NTJRCB shall consist of a Chairperson and four Commissioners. The Chairperson and at least two voting members shall be of Bangsamoro ancestry.
 - c. Two representatives of Bangsamoro civil society shall be members of the NTJRCB with the status of ex-officio, nonvoting members.
 - d. The Executive Director of the NTJRCB Secretariat shall also sit as a nonvoting, ex officio member of the NTJRCB.
- 3. The NTJRCB shall operate for six years with the possibility of extending its mandate for another three years.
- 4. The NTJRCB shall ensure the implementation of the 'dealing with the past' framework and promote healing and reconciliation. Among other things, it shall approve the working plans and reports of its four Sub-Commissions and shall ensure that each of the Sub-Commissions and all the initiatives taken

within this framework build on existing local and national best practices in conformity with international standards.

Figure 4. NTJRCB Sub-Commission Structure



- 5. The NTJRCB and its Sub-Commissions shall operate by cooperating with existing institutions. The NTJRCB shall establish memoranda of understanding (MOUs) to regulate the cooperation between its Sub-Commissions with relevant existing institutions and organizations in their respective fields.
- 6. The NTJRCB has subpoena powers to summon persons to appear before the Commission and to secure documents. It shall respect procedural fairness and ensure the confidentiality of witness testimony and information received. It is authorized to disseminate its reports and studies to a wider public.
- 7. The NTJRCB shall provide technical support, advice, or any other services on matters concerning transitional justice and reconciliation within its competence and availability to other bodies upon request.
- 8. The NTJRCB shall report to the President on a regular basis about achievements and progress in the implementation of its mandate.
- 9. The NTJRCB and its Sub-Commissions shall have a budget at their disposal and will be supported by a secretariat. The budget shall also cover the costs of at least one meeting of

the Civil Society Forum and of the Advisory Board per year.

- 10. The NTJRCB shall hire an Executive Director who shall establish an Executive Office (hereafter the NTJRCB Secretariat) that will provide administrative, financial, and technical support to the NTJRCB and to the four Sub-Commissions to implement their respective mandates. The NTJRCB Secretariat shall include a gender adviser.
- B. Recommend to the President the creation of four Sub-Commissions of the NTJRCB as part of the institutional vehicle to realize all aspects of the 'dealing with the past' strategy:
- Sub-Commission on Bangsamoro Historical Memory;
- Sub-Commission against Impunity and on the Promotion of Accountability and Rule of Law in the Bangsamoro;
- Sub-Commission on Land Dispossession in the Bangsamoro;
- Sub-Commission on Bangsamoro Healing and Reconciliation.
- 1. The Sub-Commission on Bangsamoro Historical Memory has the following mandate:
 - a. To contribute to confidence building in communities affected by the conflict through fact finding and truth seeking, while ensuring their protection, safety and dignity. In particular, the Sub-Commission shall listen to the testimony of victims in closed or public hearings, in order to collect witness statements and evidence related to specific violent events;
 - b. To investigate serious violations of international human rights and international humanitarian law,

focusing, inter alia, on specific emblematic cases of mass atrocity crimes, of land dispossession, and of conflict-related sexual and gender-based violence. In particular, the Sub-Commission shall investigate to determine whether such forms of violence were practiced as a deliberate strategy of war in the Bangsamoro conflict;

- c. To publish a series of reports about the abovementioned events and cases of IHRL and IHL violations, which include an analysis of the findings and recommendations related to individual, collective, and symbolic forms of reparations, accountability for crimes committed, institutional reforms, and reconciliation;
- d. To establish archives and a database on violations of international human rights and international humanitarian law in the Bangsamoro from 1948 until the present. In particular, the Sub-Commission shall create a database on conflict-related human casualties.
- 2. The Sub-Commission against Impunity and on the Promotion of Accountability and Rule of Law in the Bangsamoro has the following mandate:
 - a. To identify, investigate, and recommend policies, operational means, and concrete measures to address and overcome practices of impunity at all levels, whether of a technical, political, or financial nature and whether related to past or present wrongdoings;
 - b. To request disciplinary procedures against public officials who fail to cooperate or who obstruct justice and the rule of law.
- 3. The Sub-Commission on Land Dispossession in the Bangsamoro has the following mandate:

- a. To address issues related to land dispossession, use, and tenure in the conflict affected areas in the Bangsamoro by developing and/or implementing a dispute resolution mechanism for land conflicts, including indigenous peoples' (IPs) claims on ancestral domains, and for identifying lands where there are competing claimants;
- b. To create a database on actual land ownership in the Bangsamoro and on land dispossession that can be used to support legal proceedings and restitution/ reparation programs, including cadastral, geo-tagged, and community-based participatory mapping sets;
- c. To support the overall redesign of land services in the Bangsamoro, including changes in the legal framework and all procedures related to land titling, registration, taxation, and management, including IP claims on ancestral domains
- 4. The Sub-Commission on Bangsamoro Healing and Reconciliation has the following mandate:
 - a. To identify and support traditional practices of reconciliation at the community level;
 - b. To develop and promote a meaningful process for national reconciliation with a view to encouraging cultural and attitudinal change;
 - c. To support the above mentioned Sub-Commissions in the implementation of their mandate by shaping and promoting a reconciliatory vision for each of them.

Each Sub-Commission shall cooperate with relevant national, regional, and local institutions, both governmental and non-

governmental, to implement its mandate (see Figure 4 for a model of the Sub-Commission structure).

- C. Recommend to civil society organizations performing in fields related to 'dealing with the past' the creation of a Civil Society Forum for Transitional Justice and Reconciliation in the Bangsamoro that shall be culturally and socially representative of the Bangsamoro and gender-balanced in its composition.
- 1. The task of the Civil Society Forum shall be to monitor the work of the NTJRCB and to support it in the implementation of its mandate. In particular, it shall enhance the voices of victims to ensure that their needs in the area of rehabilitation are articulated and addressed.
- 2. The Civil Society Forum shall meet at least once a year to review the work of the NTJRCB based on reports by its representatives and to formulate any proposals or recommendations in this regard.
- 3. The Civil Society Forum shall propose a list of five names on the basis of a transparent nomination and selection process, from among which the President shall choose two persons to represent civil society as ex officio, nonvoting members of the NTJRCB.
- D. Recommend to the President the creation of an Advisory Board to the NTJRCB, composed of eminent national and, if deemed useful, international personages with proven expertise in the field of 'dealing with the past.' The objective of the Advisory Board is to provide advice and support to the overall process of transitional justice, healing, and reconciliation.

Part II Specific recommendations for further discussion and implementation on 'dealing with the past,' healing, and reconciliation

The recommendations listed below arose in connection with the TJRC Consultation Process, in particular during TJRC Listening Process sessions, as part of TJRC Study Group reflections, and as results of the Key Policy Interviews.

They have been edited with the 'dealing with the past' framework in mind and are complementary to the proposed mandate of the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB) and its Sub-Commissions. Existing institutions and organizations can implement these recommendations within their existing mandates and, as foreseen in the mandate of NTJRCB, they can cooperate with the NTJRCB to achieve this global endeavor. The spirit of these additional recommendations reflects the profound awareness that a process of 'dealing with the past,' healing, and reconciliation is an endeavor that must engage the whole society.

Reference is made in these recommendations to the "future Bangsamoro authorities," as foreseen in the proposed Bangsamoro Basic Law (BBL). At the time when the recommendations were formulated, the BBL was still under debate in the Sixteenth Congress of the Philippines. The TJRC is of the opinion that the current impasse in the peace process should not be seen as an obstacle, but rather as an opportunity to create a framework for normalization. Many, if not all, of the proposals formulated below can be considered for implementation in the circumstances prevailing under the ARMM administration.

The Right to Truth:

The right of victims and of society at large to know the truth and the duty of the state to preserve memory

- 1. To the Commission on Human Rights (CHR), the Department of Justice (DOJ), and the Autonomous Region in Muslim Mindanao (ARMM) in cooperation with the Sub-Commission on Bangsamoro Historical Memory:
 - a. Contribute to the investigations to be undertaken by the Sub-Commission.
 - b. Support the establishment of a national and Bangsamoro system of archives and a database on IHRV and IHL violations (with disaggregation of data according to gender, age, ethnic, religious, and other appropriate categories).
 - c. Promote community-based human rights education for all people.
 - d. Expand and strengthen the capacity of the ARMM Regional Human Rights Commission (RHRC) in the inventory of past and present human rights violations in the Bangsamoro.
- 2. To the future Bangsamoro authorities in cooperation with relevant institutions at the national and regional levels, in particular the National Historical Commission of the Philippines (NHCP), the CHR, the Department of Education (DepEd) and the Commission on Higher Education (CHEd), the Philippine Commission on Women (PCW), the National

Commission for Culture and the Arts (NCCA), the Cultural Center of the Philippines (CCP), the National Film Development Council (NFDC), the National Commission on Indigenous Peoples (NCIP), and the National Commission on Muslim Filipinos (NCMF) with the support of NTJRCB:

- a. Establish a Bangsamoro Center for History, Culture, and the Arts with the following mandate:
 - i. To collect and preserve oral history accounts, material and nonmaterial artifacts, art and cultural objects of significance for the culture and historical memory of the Bangsamoro and indigenous peoples;
 - ii. To cooperate with national, regional, and local entities in the elaboration of new school books on history and culture of the Bangsamoro and indigenous peoples and to realize public education campaigns;
 - iii. To promote cultural and historical markers within the territory of Bangsamoro and, as appropriate, elsewhere in the Philippines.
- b. Launch a national and international research program on the cultural and ethno linguistic diversity of the Bangsamoro and indigenous peoples in Mindanao and the Sulu archipelago.
- c. Produce and disseminate information material and engage in public education campaigns (including training for local and national media) about the history and culture of the Bangsamoro and indigenous peoples at the national and regional levels through school history books, museum exhibits, films, and the arts.

- d. Realize new public programs to share the experience of the Bangsamoro conflict from different perspectives, including debates on the topic of coexistence and reconciliation, with a view to creating a vision for the common good in the Bangsamoro and in the Philippines.
- 3. To the future Bangsamoro authorities in charge of education, the DepEd and CHEd, the NCCA, PCW, and CCP:
 - a. Develop culturally and gender-sensitive educational material related to the Bangsamoro and indigenous people for the national curricula in all regions and at all levels.
 - b. Create an educational program, targeting schools at all a grade level that explains the history of the Bangsamoro and indigenous peoples, their culture and their contribution to the Philippine history and identity.
 - c. Strengthen Islamic education and the madaris system as an integral part of the Philippine educational system.
 - d. Create joint, mixed, and gender-balanced technical working groups (Bangsamoro, indigenous peoples, Filipino) in the field of education with a view to addressing curricula and education issues and to promote mutual knowledge, diversity, and exchange among schools.
 - e. Ensure continuing improvements in the quality of education, in particular through teacher training in the use of 'state of the art' educational resources.

Right to Justice:

The right of victims to a fair remedy and the duty of the State to investigate and prosecute

- 1. To the President, the Department of Justice (DOJ), and the CHR:
 - a. Address impunity through the prosecution of perpetrators of grave, nonprescriptive IHRL and IHL violations.
 - b. Conduct a mapping and an inventory of criminal cases related to the Bangsamoro conflict; expedite the resolution and decision making on these cases, including purposes of amnesty.
- 2. To the GPH and MILF Peace Panels and the DOJ with the support of the Sub-Commission against Impunity and on the Promotion of Accountability and Rule of Law in the Bangsamoro:
 - a. Complete the fact-finding research related to the cases of amnesty mentioned in the Normalization Annex of the Comprehensive Agreement on the Bangsamoro (CAB) as a confidence-building measure. The DOJ shall take appropriate and timely decisions related to these cases in conformity with Protocol II of the Geneva Convention.
- 3. To the Armed Forces of the Philippines (AFP), including its Judge-Advocate General's Office (JAGO) and Provost-Marshal; the Witness Protection Program within the DOJ; the Office of the Ombudsman; the Public Attorney's Office (PAO); the Philippine National Police (PNP); the CHR; the Civil Service

Commission (CSC), and the Commission on Audit (COA) in cooperation with the Sub-Commission against Impunity and on the Promotion of Accountability and Rule of Law:

- a. Identify, investigate, and recommend ways, policies and initiatives to overcome practices of impunity at all levels whether related to past and present wrongdoings or to war crimes. Particular attention shall be paid to those involving civilian police or military personnel with records of pending unresolved cases.
- b. Request disciplinary procedures against public officials who fail to cooperate or obstruct justice and the rule of law.
- c. Identify potential areas for corruption and ways to prevent and redress corruption.
- d. Propose and monitor the implementation of stringent measures against abuse of power.
- e. Propose capacity training to support officials and institutions to address impunity and corruption.
- f. Develop programs to identify and vet corrupt, elected public officials and civil servants and monitor their implementation.
- g. Review the policy of bounty/reward that leads to miscarriages of justice, including prosecution's reliance on lone witnesses, and make recommendations for action.
- 4. To the DOJ, and the CHR and the Regional Human Rights Commission (RHRC) of the ARMM with the support of Sub Commission against Impunity and on the Promotion of Accountability and Rule of Law:

- a. Address the proliferation of paramilitary groups and private armies and their commission of human rights violations by thorough investigations and by prosecuting them to the full extent of the law.
- 5. To the DOJ, the future Bangsamoro authorities, the PNP, Department of Social Welfare and Development (DSWD) and local government units (LGUs) in the ARMM, the PCW, the NCMF, and NCIP in strong cooperation with the Sub-Commission against impunity and on the Promotion of Accountability and Rule of Law:
 - a. Identify the challenges and failures in the Philippine justice system and formulate proposals as to how these can be overcome.
 - b. Make recommendations to ensure the efficient delivery of culturally and gender-sensitive public services at community level.

Right to Reparation: The right of individual victims or their beneficiaries to reparation and the duty of the state to provide satisfaction

1. To the GPH and MILF Peace Panels, the future Bangsamoro authorities, the Office of the Presidential Adviser on the Peace Process (OPAPP), the DOJ, the CHR, the NCIP, the Integrated Bar of the Philippines (IBP), representatives of nongovernmental organizations (NGOs) and civil society organizations (CSOs), justices of the Supreme Court, the Department of Environment and Natural Resources (DENR), Land Management Bureau (LMB), Department of Agrarian Reform (DAR), Department of Agriculture (DA), Department of National Defense (DND), the AFP, the Department of

Budget and Management (DBM), and the National Economic and Development Authority (NEDA) in cooperation with the Sub-Commission on Land Dispossession in the Bangsamoro:

- a. Address issues related to land dispossession, use, and tenure in the conflict-affected areas in Mindanao by developing and/or implementing a dispute-resolution mechanism for land conflicts, including indigenous peoples' claims on ancestral domains.
- b. Identify lands where there are competing claimants.
- c. Retrieve and store data and build a database on actual land ownership in the Bangsamoro.
- d. Support the overall redesign of land services, including a unified cadastral framework, changes in the legal framework and in procedures related to land titling, land registration, land taxation, and land management within the administrative territory, including indigenous peoples' claims on ancestral domains.
- 2. To the NHCP, DepEd and CHEd, NCCA, NCIP, NCMF, and PCW and to the future Bangsamoro authorities:
 - a. Integrate in the curricula at all educational levels:
 - i. Subjects on Bangsamoro history, indigenous peoples' history, and corresponding lessons in art, literature, and language by promoting inter cultural exchange and cultural diversity;
 - ii. Peace education, gender studies, and non violent conflict management.
- 3. To the Bangsamoro Center on History, Culture and Arts with the NHCP, the DepEd and CHEd, the NCCA, the PCW, the

NCIP, the NCMF, and the future Bangsamoro authorities:

- a. Conduct an inventory of places that have been named or renamed to honor colonial personages and others who are perceived to have violated the rights of the Bangsamoro and indigenous peoples, and suggest ways to redress the situation through a consultative and participatory process.
- b. Identify and memorialize the principal historical sites related to the Bangsamoro and indigenous peoples.
- c. Propose a global plan of memorialization in consultation with civil society with a view to:
 - i. memorializing specific tragic events and events and honoring victims (including women);
 - ii. identifying and (re)habilitating specific sites as 'sites of conscience';
 - iii. identifying lost cultural assets and ensuring the recovery of cultural items taken during the conflict.
- 4. The CHR and the ARMM Regional Human Rights Commission (RHRC) with the Bangsamoro Centre on History, Culture and Arts, the NCCA, PCW, NCIP, NCMF, HRVCB, the Memorialization Commission, and the Board of Trustees of the Bantayog ng mga Bayani:
 - a. Include Bangsamoro and indigenous peoples who were victims of Martial Law, while paying attention to the specificity (i.e. ethnoreligious, gender) of their victimhood and to the root causes of their struggle in the memorialization initiatives honoring Martial Law victims.

- 5. To the national and the future Bangsamoro authorities, the DSWD, the Department of Health (DOH), PCW, NCIP, and NCMF:
 - a. Accelerate the provision of basic services as well as specialized health care services in the ARMM the Bangsamoro entity, including specialized care for individuals who may have suffered physical and mental disabilities linked to conflict-, gender-, and identity-based violence.
 - b. Develop cultural and gender-sensitive, psychosocial healing services for the Bangsamoro and indigenous have suffered traumatic experiences, in particular trauma associated with sexual violence.
 - c. Encourage the hiring of Moro and IP health care workers, especially women, and provide support for traditional health care practices.
 - d. Issue an internal directive for the provision of preferential free access to health and social services, as well as educational opportunities for widows and orphans of war.
 - e. Elaborate a victim/survivor-oriented, conflict- and gender-sensitive development plan with preferential measures for war-affected communities.
- 6. To the future Bangsamoro authorities and appropriate civil society, cultural, and religious leaders, with the support of the Bangsamoro Center on History, Culture and Arts, NCMF, and NCIP:
 - a. Hold regular interethnic forums and dialogues especially among the various Muslim ethnolinguistic groups, between Bangsamoro and indigenous groups, and between Muslims and Christian settler communities in the Bangsamoro.

- b. Develop dialogue spaces for Bangsamoro and indigenous peoples to share common stories and cultural practices/traditions that promote healing.
- 7. To the DepEd and CHEd, NCCA, CCP, PCW, and NFDC with the support of NTJRCB:
 - a. Encourage and disseminate specific film documentaries, feature films, and artistic productions with a view to generating an understanding of and positive awareness about cultural and religious diversity.
 - b. Generate film documentaries on the history of the Bangsamoro, their historical grievances and human rights violations to be shown in schools to students and in movie theaters to a general audience.
 - c. Promote Bangsamoro and indigenous culture through festivals of the arts that are respectful of traditional world views and ways of living.
- 8. To the CHR and the ARMM RHRC, NEDA, the future Bangsamoro authorities, the Mindanao Development Authority (MinDA), and the Bangsamoro Development Authority (BDA) with the support of the Sub-Commission on Land Dispossession in the Bangsamoro and the Sub-Commission on Bangsamoro Historical Memory:
 - a. Based on the findings of the Sub-Commission on Bangsamoro Historical Memory, ensure the creation and implementation of a culture and gender sensitive reparation program guided by the UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law with particular attention given to restitution, compensation, and rehabilitation

- 9. To the Human Rights Victims Claims Board (HRVCB), CHR, and ARMM RHRC:
 - a. Authorize the NTJRCB to access the database of the HRVCB and CHR with respect to claims submitted by Martial Law victims or to cases of IHRL and IHL violations in Mindanao and the Sulu archipelago, both prior to, during, and after the Martial Law period.

10. To the AFP and PNP:

- a. Contribute to symbolic reparations by offering formal apologies for their respective role in the commission of or failure to prevent human rights and humanitarian law violations, as well as for specific incidents known to Bangsamoro communities and to the AFP or PNP alike. In such a case, the AFP or PNP shall contribute to material reparations, e.g., by rebuilding homes, mosques, madrasahs, and other community infrastructure in affected Bangsamoro communities.
- b. Authorize the NTJRCB to access archival material and database information that is relevant to its man date. The AFP or PNP shall protect institutional archives of all kinds related to IHRL and IHL violations.
- 11. To the future Bangsamoro authorities and DENR in cooperation with the Sub-Commission on Land Dispossession in the Bangsamoro:
 - a. Conduct an inventory of corporate firm leaseholds or grants for reforestation projects that cut across ancestral domain and land claims.
 - b. Rationalize forest reservation at the regional level.

- c. Authorize the NTJRCB to access data from the Presidential Commission on Good Government (PCGG) on:
 - i. Cases involving concessions granted by the Marcos dictatorship over State-controlled land in Mindanao for timber, mining, or other natural resource exploitation to individuals or business entities owned or controlled by those considered as business associates of the Marcos family under Executive Order Nos. 1, 2, and 13.
 - ii. Cases involving the purchase, lease, or takeover of coconut farms or coconut oil production facilities in provinces within the ARMM, using the Coconut Industry Investment Fund (CIIF) and related coconut levy money.

Guarantees of Non-Recurrence:

The right of victim and society at large to protection from further violations and the duty of the state to ensure good governance and the rule of law

- 1. To the President and the future Bangsamoro authorities and relevant institutions such as the CHR, ARMM RHRC, DSWD, DOH, and LGUs:
 - a. Adopt policies to break the cycle of internal displacement by providing means for return with accompaniment and durable solutions especially for internally displaced peoples in protracted displacement situations.
- 2. To the future Bangsamoro authorities in cooperation with the Office of the President, DSWD, and BDA with the support of the private sector:

- a. Develop and ensure the availability of the full range of social services to support inclusive economic growth and stable livelihoods for the population in the Bangsamoro.
- b. Engage in a sustained dialogue with the private sector and future Bangsamoro authorities to search for ways to promote ecologically and socially responsible develop ment in the Bangsamoro region. Particular attention shall be paid to the formulation of guidelines on ecologically and socially responsible investments in war-affected areas.
- 3. To the ARMM Regional Reconciliation and Unification Commission (RRUC), ARMM RHRC, and the future Bangsamoro authorities with the support of religious leaders and civil society organizations:
 - a. Enhance the capacity of the ARMM RRUC in resolving conflicts through partnerships with Moro and indigenous leaders.
- 4. To the national DepEd and CHEd and educational authorities at the Bangsamoro level:
 - a. Develop curricula for higher degrees in law at universities, including training in Shari'ah law as well as traditional mediation mechanisms and justice procedures.
- 5. To the relevant institutions concerned with land issues in the national government, the future Bangsamoro authorities or the ARMM Regional Government, and the Sub-Commission on Land Dispossession in the Bangsamoro:
 - a. Address claims related to ancestral domains, implement IPRA, and devolve NCIP in ARMM.

- 6. To the future Bangsamoro authorities, and the agency members of the National Steering Committee on Women, Peace and Security (NSCWPS), namely, OPAPP, PCW, the Department of Foreign Affairs (DFA), the Department of the Interior and Local Governments (DILG), DND, DSWD, DOJ, NCMF, and NCIP:
 - a. Institutionalize capacity building for women in the Bangsamoro towards their empowerment and the recognition of the integrality of their rights, including property rights.
 - b. Support the future Bangsamoro authorities in continuing, strengthening, or expanding existing structures and mechanisms for women at different levels (e.g., the Regional Commission on Bangsamoro Women or RCBW and provincial women's councils).
 - c. Ensure the meaningful political participation of Moro and indigenous women in national, regional, and local bodies.
 - d. Enhance the National Action Plan on Women, Peace and Security to include a Regional and/or Local Action Plan on UN Resolution 1325 and 1820 in the ARMM.
- 7. To the Senate of the Philippines and House of Representatives:
 - a. Pass a Bangsamoro Basic Law to provide the political and institutional infrastructure to pursue the peace agreements.
 - b. Support the national 'dealing with the past' and reconciliation process, through the enactment of laws and amendments to ensure the implementation of the TJRC recommendations and provide the NTJRCB with the needed funding and resources to carry out its mandate

- c. Invite the NTJRCB, or the specific Sub-Commission in charge, to report regularly on progress realized in the national 'dealing with the past' and reconciliation process.
- d. Request the Sub-Commission on Historical Memory to realize specific hearings with victims in both the House and the Senate related to specific cases of international human rights and international humanitarian law violations.
- e. Adopt laws that contribute to reconciliation.
- f. Support a Presidential apology with an official ceremony, including a minute of silence each month for all the victims of the Bangsamoro conflict.
- g. Encourage and create conditions for political parties to have informed positions on Bangsamoro.
- h. Create a 'Commission on the Promotion of Diversity' in both the House and the Senate, mandated to develop a legal framework that promotes intercultural understanding based on the principles of exchange of knowledge, practice of tolerance, and acceptance of diversity.

8. To the AFP:

a. In cooperation with Sub-Commission on Land Dispossession in Bangsamoro, assess the process of appropriation and legal ownership of property occupied by military camps and seek ways to restore that property to its rightful owners or to provide adequate compesation, when warranted.

b. Review the recruitment procedure of former MNLF combatants into the AFP in terms of its quantitative and qualitative impact.

9. To the AFP and the PNP:

- a. Strengthen cooperation with RRUC, the future Bangsamoro authorities or ARMM, and justice institutions in addressing local conflicts.
- b. Encourage recruitment of Moro women into the AFP or PNP.
- 10. To the AFP, the PNP, and related offices such as the Philippine Military Academy (PMA), the National Defense College of the Philippines (NDCP), Philippine National Police Academy (PNPA), and the Philippines Public Safety College (PPSC):
 - a. Address the practice of military 'hamleting,' including the destruction and/or defilement of religious structures during military operations with a view to rectifying or compensating for damages.
 - b. Review the system of assignment of security sector personnel (AFP and PNP) to Mindanao (e.g., deployment as punishment; fresh recruits; deployment without education on Mindanao).
 - c. Set limits in terms of duration and number of AFP personnel that can be deployed for military operations in Mindanao, so that the problems arising from the assignment of military units unfamiliar with Bangsamoro contexts and not trained in law enforcement operations are minimized.
 - d. Review the results of previous recommendations

related to security sector reform put forward by earlier commissions, such as the Davide, Feliciano, and Melo Commissions, and continue to pursue full-fledged security sector reform, including capacity training and the deployment of a recruitment program based on integrative values, reflecting diversity, inclusion, and sensitivity to culture and gender (e.g., 'women, peace and security').

- e. Include lessons about Bangsamoro history and culture in the curricula of the military academy.
- 11. To the LGUs in cooperation with the future Bangsamoro authorities, NEDA, MinDA, and BDA with the support of the Sub-Commission on Land Dispossession in the Bangsamoro:
 - a. Set up a 'one-stop shop' assistance center for Bangsamoro and indigenous peoples to focus on the problem of landlessness and access to public services.
 - b. Create a moratorium on the distribution of public lands and prevent the declaration of public lands as alienable and disposable.
- 12. To relevant civil society organizations in the Bangsamoro and in the Philippines:
 - a. Constitute and participate in the Civil Society Forum for Transitional Justice and Reconciliation in the Bangsamoro with a view to monitoring the implementation of the NTJRCB mandate.
 - b. Submit a list of five names of civil society representatives with the appropriate moral standing and professional qualifications to the President for selection to participate in the NTJRCB as ex officio, nonvoting

members. Ensure that the two persons selected are acting in representation of civil society and in the interest of the victims of the conflict.

c. Support and cooperate with the NTJRCB in the implementation of recommendations with a view to enhancing the satisfaction of victims and strengthening the guarantee of non-recurrence.

13. To the International Community:

- a. Create a Group of Friends of the NTJRCB based on the Paris and Busan principles with a view to supporting the overall process towards reconciliation.
- b. Support the work of the NTJRCB and its Sub-Commissions politically and financially.
- c. Integrate a victim-, gender- and conflict-sensitive approach into any project of financial support to the NTJRCB and its Sub-Commissions as well as to the Civil Society Forum.
- d. Request information based on regular monitoring and reporting on the work of the NTJRCB and its Sub-Commissions as well as on implementation of the recommendations and efforts realized by the government and the future Bangsamoro authorities towards reconciliation.
- e. Request the Government of the Philippines to present regular progress reports related to the work of the NTJRCB and its Sub-Commissions on the occasion of the Universal Periodic Review (UPR) at the UN Human Rights Council.



annex 2

THE TJRC LISTENING PROCESS QUESTIONNAIRE

ation Healing and and and sion	ook at How to move on towards in your a peaceful future for d in the your community, the Bangsamoro and the Philippines?	effects Identifying the effects	causes - Why are reconciliation ces and healing needed for your community, the Bangsamoro and Philippine society at	large? - How could reconciliation and healing contribute to change life in your community, for the Bangsamoro and in the Philippine society at large?
Marginalization through Land Dispossession	When you look at the situation in your community and in the Bangsamoro	Identifying the effects	- What are the causes and circumstances that led to land dispossession of the Bangsamoro?	- What about your community? Can you describe these effects very concretely?
Human Rights Violation	When you think of experiences during the conflict	Identifying the effects	- How did these human rights violations affect your family and your community?	- How have they affected relationships within your family, among community and your people? And with the Philippine society at large? Can you describe these effects very
Historical Injustice	When you recall the history of your people, the history of the Bangsamoro and the Philippines	Identifying the effects	- How have these experiences of injustice in the past affected your community, your people and the Bangsamoro?	- How have they affected relationships within your community, your people and the Bangsamoro? And with the Philippine society at large? Can you describe these
Legitimate Grievances	When you think about the Bangsamoro people	Identifying the effects	- How have these grievances affected the life of your family and that of your community?	- In particular how have these grievances affected relationships within your family, your community, and your people? And with the Philippine society at large? Can you describe these

Legitimate Grievances	Historical Injustice	Human Rights Violation	Marginalization through Land Dispossession	Healing and Reconciliation
When you think about the Bangsamoro people	When you recall the history of your people, the history of the Bangsamoro and the Philippines	When you think of experiences during the conflict	When you look at the situation in your community and in the Bangsamoro	How to move on towards a peaceful future for your community, the Bangsamoro and the Philippines?
Addressing the grievances	Addressing the legacy of historical injustice	Addressing the consequences of human rights violations	Addressing the consequences of marginalization	Promoting healing and reconciliation
- How shall the consequences of these grievances be addressed? - Who should be in charge? - Who should be involved? - What results do you expect by addressing these consequences? Please describe these results very concretely	- How shall the legacy of historical injustice be addressed? - Who should be in charge? - Who should be involved? - What results do you expect by addressing this legacy? Please describe these results very concretely	- How shall the consequences of serious human rights violations be addressed? - Who should be in charge? - Who should be involved? - What results do you expect by addressing these human rights violations?	dispossession - How shall the consequences of marginalization be addressed? - How shall the consequences of land dispossession be addressed? - Who should be in charge? - Who should be in charge? - Who should be in charge? - What concrete results do you expect by addressing the consequences?	- What kind of healing/ reconciliation initiatives shall be realized? - Who should be in charge? - Who should be involved? - What might be the obstacles to reconciliation and healing? - How to overcome them?

ıtion Healing and and Reconciliation sion	ok at How to move on towards n your a peaceful future for d in the your community, the bridge Bangsamoro and the Philippines?	on for Recommendation for public policies	nment authorities (lers) government officials and and leaders) at local/ to regional and national sues? level do to promote kpect as healing and reconciliation? lse be 'What do you expect as concrete results? ow? u be
Marginalization through Land Dispossession	When you look at the situation in your community and in the Bangsamoro	Recommendation for public policies	- What shall the authorities (government officials and leaders) at local/regional and national level do to address these issues? - What do you expect as concrete results? - Shall anyone else be involved in addressing these issues? How? - What would you be expecting as concrete results?
Human Rights Violation	When you think of experiences during the conflict	Recommendation for public policies	- What shall the authorities (government officials and leaders) at local/regional and national level do to address these issues? - What do you expect as concrete results? - Shall anyone else be involved in addressing these issues? How? - What would you be expecting as concrete
Historical Injustice	When you recall the history of your people, the history of the Bangsamoro and the Panlippines	Recommendation for public policies	- What shall the authorities (government officials and leaders) at local/regional and national level do to address these issues? - What do you expect as concrete results? - Shall anyone else be involved in addressing these issues? How? - What would you be expecting as concrete
Legitimate Grievances	When you think about the Bangsamoro people	Recommendation for public policies	- What shall the authorities (government officials and leaders) at local/regional and national level do to address these issues? - What do you expect as concrete results? - Shall anyone else be involved in addressing these issues? How? - What would you be expecting as concrete

Legitimate Grievances	Historical Injustice	Human Rights Violation	Marginalization through Land Dispossession	Healing and Reconciliation
When you think about the Bangsamoro people	When you recall the history of your people, the history of the Bangsamoro and the Philippines	When you think of experiences during the conflict	When you look at the situation in your community and in the Bangsamoro	How to move on towards a peaceful future for your community, the Bangsamoro and the Philippines?
Existing best practices - Do you know of any organization or institution that is addressing the legitimate grievances of the Bangsamoro? - Who are these organizations or people, what are they doing, with what results? - Have you/your group/ community done anything to address these grievances? - If no, why? - If yes, please describe these initiatives and their results	Existing best practices - Do you know of any organization or institution that is addressing the historical injustice of your people and the Bangsamoro? - Who are these organizations or people, what are they doing, with what results? - Have you/your group/ community done anything to address historical injustice? - If no, why? - If yes, please describe these initiatives and their results	Existing best practices - Do you know of any organization or institution that is addressing these serious human rights violations? - Who are these organizations or people, what are they doing, with what results? - Have you/your group/community done anything to address these human rights violations? - If not, please explain why - If yes, please describe these initiatives and their results	Existing best practices - Do you know of any organization or institution that is addressing issues related to marginalization and land dispossession? - Who are these organizations or people, what are they doing, with what results? - Have you/your group/ community done anything to address issues related to marginal-ization and land dispossession? - If no, why? - If no, why?	Existing best practices - Do you know of any organization or institution that has taken ini-tiatives in terms of healing and reconciliation? - Who are these organizations or people, what are they doing, with what results?

ANNEX 3





TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION BG 3A L/G Somerset Olympia Towers No. 7912 Makati Advenue, Makati City, Philippine 1200

Email Address: tjrc2015@gmail.com Landline Number: +632 - 3576703

Date

Dear Participant,

Rufa Cagoco-Guiam

Listening Process Lead Coordinator

Warm greetings of peace from the TJRC!

As you may know, the TJRC was created by the Annex on Normalization as an integral part of the Comprehensive Agreement on the Bangsamoro (CAB) between the Government of the Republic of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). It is mandated to undertake a study and to make recommendations with a view to promote healing and reconciliation among the communities that have been affected by the conflict. Specifically, its mandate focuses on four areas that address both the root causes and the effects of the conflict: legitimate grievances of the Bangsamoro people, historical injustice, human rights violations, and marginalization through land dispossession.

To fulfill its mandate, the TJRC has decided to engage in a broad-based consultation process, which includes a Listening Process comprised of sessions facilitated by field facilitators to be conducted in over 200 conflict-affected communities in Mindanao. The purpose of the sessions is to engage in an in-depth dialogue with community members on the key issues of the TJRC mandate and to gather public policy recommendations that will contribute to the formulation of the TJRC report.

In line with this, we would like to invite you as a participant in the Listening Procession in your community. This will be conducted on at	s ses-
Ms./Mr is your facilitator for this area and may be reached atf questions or concerns.	or any
Thank you very much and we look forward to your favorable response!	
Sincerely,	



A report prepared by the Transitional Justice and Reconciliation Commission (TJRC)

Cotabato City and Manila February 2017



Transitional Justice and Reconciliation Commission

LISTENING PROCESS REPORT 2017

PHILIPPINES

Supported by:

