



ON THE BANGSAMORO ORGANIC LAW (BOL)

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SANDUGO/MCPA POSITION on the BANGSAMORO ORGANIC LAW (BOL)

Republic Act No. 11054
6 January 2019

MCPA Statement on the Signing of the GPH-MILF Comprehensive Agreement on the Bangsamoro (CAB)

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BACKGROUND

To address the roots of the armed conflict in Muslim Mindanao was the primary agenda of the peace negotiations between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) which started in 1997. Concretely, issues such as ancestral domain and territory, widespread poverty and hunger, backward agriculture and lack of infrastructures support, unemployment, security and militarization, grave human rights violations and displacement, lack of basic social services - especially health and education - are among of the main causes of the restiveness in Moro communities and the rise of two major Moro armed resistance movements (MNLF, 1969-1996 and MILF, 1984-2014) in Muslim Mindanao since the 1960s; post-colonial period.

The Aquino regime forged the Comprehensive Agreement on the Bangsamoro (CAB) with the MILF but failed to pass the basic law (BBL) that will govern its implementation

On March 27, 2014, the GPH-MILF Comprehensive Agreement on the Bangsamoro (CAB) was forged under the Benigno Aquino III administration. The CAB politically concluded the 17-long years of the GPH-MILF peace negotiations (1997-2014) that went through four administrations - Ramos, Estrada, Arroyo and Aquino III. The GPH-MILF peace negotiations were marked with heated discussions, impasses, suspensions, withdrawals, threats of termination and halted by two major all-out-war declarations by the Estrada and Arroyo regimes against the MILF while the peace talks were in progress.

Immediately after the signing of the CAB, President Aquino constituted the Bangsamoro Transition Commission (BTC) which was tasked to draft a proposed Bangsamoro Basic Law (BBL) that

will govern the implementation of the CAB. Mohagher Iqbal, chairman of the MILF peace negotiating panel, headed the 15-man BTC composed of 7 GPH nominees and 8 MILF nominees. When the BTC submitted their draft BBL to the office of the President, the document was heavily diluted after it underwent review by the President's Legal Team with inputs from the Department of Justice (DOJ), Office of the Presidential Adviser on the Peace Process (OPAPP), Department of Agrarian Reform (DAR), Department of Agriculture (DA), Department of Environment and Natural Resources (DENR) and Armed Forces of the Philippines (AFP).

The MILF leadership found the diluted BBL unacceptable and strongly expressed their rejection of it. A series of meetings between the GPH and MILF peace panels ensued to reconcile the revisions and deletions made by the Office of the President with the BTC BBL but to no avail. It was through the intervention meeting between President Aquino and MILF Chairman Al Haj Murad Ebrahim that the BBL "agreed version" was reached. Thereafter, President Aquino signed and submitted the BBL "agreed version" to Congress as urgent bill. At the House of Representatives, it was filed as House Bill No. 4994. In the Senate, it was filed as Senate Bill No.2408.

But, at the height of Congress and Senate deliberation of their respective BBL bills, a US-directed covert military operation against so-called "international terrorist" Marwan was conducted in the municipality of Mamasapano, Maguindanao which is a controlled area of the MILF on January 15, 2017. That infamous covert military operation resulted in the massacre of 44 members of the Special Action Force (SAF), the elite unit of the Philippine National Police (PNP). President Aquino's allies in Congress and in the Senate strongly condemned the massacre and accused the MILF of treachery.

In the aftermath of the anti-Moro hysteria stirred by the Mamasapano fiasco, the proposed bills for the BBL were rejected by many lawmakers, mostly Aquino allies, who questioned the constitutionality, the big budget allotment for the Bangsamoro entity, and even the true names of the MILF leaders.

At the House of Representatives, the original proposed bill HB 4994 was replaced with substitute bill HB 5811, which was passed in May 2015 by the House ad hoc committee on the Bangsamoro. It reached as far as plenary debates in December 2015. The said substitute bill renamed the BBL into the "Basic Law for the Bangsamoro Autonomous Region" (BLBAR).

The enactment of the BLBAR would have also established the Bangsamoro Autonomous Region (BAR) that will replace the present Autonomous Region in Muslim Mindanao (ARMM), a political entity created by President Corazon Aquino in 1988 in the course of the GRP-MNLF peace negotiations; her legacy to the Moro people. Twenty-six years later, her son, President Benigno Aquino III, declared the ARMM as a “failed experiment” and had wanted the BAR as his regime’s legacy. The Mamasapano debacle, however, ruined all his efforts to pass the BLBAR before his term ended in June 2016.

The victory of President Rodrigo R. Duterte, former Davao City mayor, a Mindanaoan and who proudly boasted to have a Meranaw Moro lineage, in the 2016 presidential election has created high expectations from the MILF and the Moro people in general. With the promise that he will address the US colonialism’s historical injustice committed against the Moro people, they were optimistic that the basic law for the CAB will finally be enacted and an expanded and enhanced Bangsamoro political entity will be established.

Initially, President Duterte wanted Prof. Nur Misuari, who is chairman of the mainstream Moro National Liberation Front (MNLF), to be part of his expanded Bangsamoro Transition Commission (BTC) that will draft a new Bangsamoro Basic Law (BBL) that is inclusive and mindful of other agreements gained through decades of peace process such as the 1976 GRP-MNLF Tripoli agreement and the 1996 GRP-MNLF Final Peace agreement. Misuari declined the invitation and opted to focus his efforts to campaign for Duterte’s federalism program. The MNLF-Sema/Jikiri faction, however, accepted President Duterte’s invitation and became part of his 21-member BTC: 10 GPH/MNLF nominees and 11 MILF nominees. Mr. Ghazali B. Jaafar, MILF Vice-Chairman for Political Affairs, chairs the expanded BTC.

The new draft BBL was submitted to President Rodrigo Duterte in Malacanang on 17 July 2017. In his speech, Mr. Jaafar told the President “This BBL is our new formula for the very elusive peace in Mindanao.” The Duterte-MILF BBL, which was renamed Bangsamoro Organic Law (BOL), was filed in the House of Representatives as House Bill No. 6475, which was passed on 24 July, 2018 under House Speaker Gloria Macapagal-Arroyo. In the Senate, it was filed as Senate Bill No. 1717, which was passed on 23 July 2018 under Senate President Vicente Sotto III. The consolidated House

and Senate bills became Republic Act No. 11054 which was approved and signed by President Rodrigo R. Duterte on 27 July 2018 in Malacañang, Manila.

The Bangsamoro Organic Law (BOL or RA 11054) is set to be ratified in two plebiscite schedules: January 21, 2019 for the core territories and February 6, 2019 for the municipalities and barangays outside the ARMM whose petitions to be included in the Bangsamoro Autonomous Region in Muslim Mindanao were approved.

The BANGSAMORO ORGANIC LAW (BOL or Republic Act No. 11054) of the Duterte regime

Too much hype was generated by the government in the signing of the Bangsamoro Organic Law (BOL) as the final road to peace in Mindanao and to fulfill its promise in long-drawn peace negotiations with the Moro Islamic Liberation Front (MILF).

The BOL (Republic Act No. 11054), also known as the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (OLBARMM), is the latest law that defines the form of regional autonomy for the Moro people in Mindanao. It repeals Republic Act 6734 which created the ARMM and RA9054 which amended the Autonomous Region in Muslim Mindanao (ARMM) law to incorporate the 1996 Final Peace Agreement between the Government of the Philippines (GPH) and the Moro National Liberation Front (MNLF).

The BOL paves the way for the creation of the new Bangsamoro political entity, Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), which Sen. Miguel Zubiri, one of the authors of the law, named as “ARMM Plus,” meaning, “10 times” improved ARMM in terms of self-governance, self-determination and giving the BARMM a block grant and fiscal autonomy. Unlike under the ARMM, Congress will not be asked for the BARMM’s budget but an automatic appropriation of at least 5% will be released every year to the new region.

The BARMM is also the only political entity that will adopt a parliamentary form of government while implementing Shariah laws through its local courts albeit limited to civil and family lawsuits – matters which actually form part of the current setup in the ARMM.

Many Moro people, however, are not that jubilant with the signing of BOL arguing that the law is another watered-down version of

the Comprehensive Agreement on the Bangsamoro (CAB). How can the Moro people accept President Rodrigo Duterte's promise of peace when many provisions contained in the CAB signed in 2014 with the MILF were lost in the BOL with lawmakers resorting to "language engineering" to make the BOL "constitutionally compliant"? This departs from the previous negotiating frameworks that considered international laws upholding the concept of right to self-determination of all peoples.

What was achieved instead in this latest Bangsamoro Basic Law (BBL) is the strengthening of the national government's hold over the new Bangsamoro entity by maintaining the primacy of national laws above regional laws, increasing reserved powers over defense and security as well as public order and safety and the continuing state and corporate control of resources within the Bangsamoro areas.

Even with the setup of a parliamentary government, the political ties with national political parties will still predominate given that the current dynamics of Moro politics in general remains subject to politics of the more well-funded, elite-dominated, and foreign-linked national political parties.

Moreover, a threat looms where the recognized core territories of the Bangsamoro may be sidelined since the creation of the new Bangsamoro political entity will undergo a plebiscite in January 2019 to define finally its core territories. The current ARMM provinces (Maguindanao, Lanao del Sur, Basilan, Sulu and Tawi-Tawi) and the lone Islamic City of Marawi will also be part of the plebiscite where people will be asked if they accept the BOL and be part of the BARMM. The 39 barangays in North Cotabato and six municipalities in Lanao del Norte, which voted to be part of the ARMM but lost to the over-all votes of their mother units in the 2001 plebiscite, will also take part in the plebiscite in addition to the cities and municipalities with at least 10% Moro population.

The Cotabato City local government unit (LGU), which hosts the central office of the ARMM, is already saying that should plebiscite be held they will refuse to be part of the BARMM. The local leaders in the island provinces such as Sulu are also threatening to bolt out as one of the core territories of the autonomous region. The BOL removed the periodic plebiscite (every 5 years) that would give Moro populated areas an option to be part of the BARMM in the future.

The signing of the BOL creates a more divided Moro constituency, with some people calling for a separate Bangsa Sug for the island provinces who are predominantly Tausug and Yakan. The Moro National Liberation Front (MNLF) under Prof. Nur Misuari opted to wait for the federal government, prodded by President Duterte's promise to give his place in a divided Bangsamoro territory – mainland and island provinces.

The BOL gives no assurance that the MILF will be at the helm of the Bangsamoro beyond the transition period as they too will be part of the competing political parties that will vie for seats in the parliament and to head the BARMM. In fact, the MILF had lost the role of policing the Bangsamoro in the BOL with the removal of the concept of a Bangsamoro police force that should have been comprised of their members. This system will only reinforce the iron-handed role of the Philippine National Police (PNP) against the Moro people.

It should also be borne in mind that any sitting government's framework for peace negotiation has been dictated by disarmament, demobilization, and reintegration/rehabilitation (DDRR). The new term used for the MILF peace talks is "normalization" or the transition of the MILF's Bangsamoro Islamic Armed Forces (BIAF) from combatants to civilians, thus effectively burying the legitimate and historical objectives of their decades-long armed struggle for self-determination.

BIAF will soon be trained as the military and police force of the region to enforce anti-terror policies and other laws. The MILF had been locked to the ceasefire agreements and obliged to surrender their arms through decommissioning. They now become part of the security forces of the Philippine government through joint normalization teams assigned to suppress possible reactions and new rebellions, categorized as acts of terrorism, in anticipation of the Moro people's discontent should the peace deal forged by the MILF with the government fails.

Inch by inch, the MILF is being stripped of its capacity to defend the Moro areas from military operations and in the end become part of the Armed Forces of the Philippines (AFP) and the PNP to serve as the government's tool for repression of the Moro people. The first ceremonial turnover of 75 firearms and 145 MILF combatants deemed ready to return to normal life took place in June 2015, five months after the infamous Mamasapano fiasco. Probably before

the plebiscite, the MILF should have turned over massive caches of artillery to the government.

No matter how the peace panels change the concept, what the Moro people understand is that this is already about surrendering the struggle for the defense of the Bangsamoro communities. Meanwhile, the rest who continue to defend their communities have to contend with being tagged as “terrorists” and demonized with downright prejudice.

Limiting the struggle for the Moro people’s right to self-determination

The role played by the MILF was bound to delimit the Moro people’s struggle for the right to self- determination with the peace process itself manipulated by the government as a deceptive tool to undermine the Moro people’s historical struggle.

The struggle for the right to self-determination should not be confined to governance alone - the very important lesson learned with the creation of the “failed experiment” of the ARMM. The Philippine Constitution only allows the formation of a regional autonomy, hence all formulations of right to self-determination will be deemed unconstitutional. The bicameral committee even replaced those words in the BOL-BARMM stressing the need to preserve “territorial integrity and sovereignty.”

To objectify, the recognition of the people’s right to self-determination is enshrined in the first article of the United Nations Charter and that this right is not just for a struggling minority of a certain country but for entire peoples in a colonized country as well. It is not a divisive concept but the assertion of the whole nation who fights against control by another country or corporation. It should therefore be a wake-up call to all Filipinos that the struggle of the Moro and indigenous peoples for right to self- determination is a struggle to protect our communities and resources from plunder and colonization.

Vigilance demands to work against the possibility of President Duterte using the BOL and the future BARMM as a tool of control and repression against the Moro people and their right to self-determination squandered within the constraints of the constitution thus allowing any renewed fight for self-determination as unlawful and subject to state repression.

The MILF's justification for accepting a "may not be perfect" BBL will further put in danger the genuine struggle of the Moro people for the right to self-determination. Indeed, the MILF is badgered by government threat that if the BBL is not passed in their lifetime, Moro "extremists" and terrorists will take over the struggle of the Moro people. Despite this, Moro groups that continue the armed struggle feel the need to continue to defend their communities from the government's all-out war and other destructive wars that result in numerous human rights violations.

Under the current administration, the campaign of crushing terrorists/extremists has been conveniently used by President Duterte to justify his unremitting issuance of repressive measures. Sadly, as a partner of the government in the peace process, the MILF is bound to also take part in "cleansing" Bangsamoro communities of government-identified "terrorists".

The use of airstrikes and mortar shelling has barefacedly become the norm in military operations in Moro areas. The recent airstrikes against the Bangsamoro Islamic Freedom Fighters, a MILF-breakaway group, in Liguasan Marsh (an MILF-influenced area in the boundaries of North Cotabato, Maguindanao and Sultan Kudarat provinces) during the fasting month of Ramadan led to the forcible evacuation of more than 20,000 families.

According to Mindanao rights group Barug Katungod, 75% of the combat forces of the Philippines are deployed in Mindanao (Eastern and Western Command) during the declaration of Martial Law – that translates to 71 AFP battalions with 21 Army battalions and 5 marine battalions deployed mostly in the Moro and Lumad areas. During the Marawi Siege, 12,186 AFP troops were deployed in the city, backed by an undeclared number of US and Australian soldiers and their spy planes and arsenal.

The people of Marawi City cannot forget how President Duterte responded to the siege led by a small band of extremists in the city last year that reduced their communities into rubbles as a result of aerial bombardment and how until now many residents are still not allowed to go back to their communities and take part in the rehabilitation of Marawi City by the Duterte administration. In the rehabilitation, the Task Force Bangon Marawi (TFBM) has prioritized the construction of a new military camp and an economic zone, infrastructures for commercial purposes instead of rebuilding residents' houses.

The US-led “war on terror”, launched in 2002, has led to numerous cases of human rights violations: massive arrests of innocent civilians paraded as terrorists, physical and mental torture, forcible signing of documents alleging those arrested as terrorists. With the government not lifting the state of emergency and lawlessness and lawless violence still prevailing, MNLF and MILF members themselves were among the victims even as they were falsely accused as terrorists and charged with rebellion and common crimes.

Soon, with the implementation of the Philippine Identification System Act, a law signed on August 6, 2018 and the amended Human Security Act (called Prevention of Terrorism Act of 2018), practically all Moro men and women tagged as terrorists face the risks of illegal arrest and detention.

Will BOL pave the way for lasting peace in the Bangsamoro?

Until the roots of the armed conflict are resolved, peace in the Bangsamoro will remain elusive. The Moro people will continue to fight for their rights, together with the rest of the marginalized people, because these are hardly recognized in Philippine governance.

The Moro people remain poor because of landlessness and homelessness aggravated by relentless military operations and corporate encroachments on Moro communities. In the name of “national development,” the Duterte government has railroaded the rights to ancestral domain and territories of the national minorities and openly sold to foreign corporations the resources in these areas.

Most of the Moro people are tenants of the elite landed families – both fellow Moro families and Christian settlers - who own vast hectares of land. They are burdened with paying for the rent and most of the times are saddled in debts.

Just like other farmers, workers and fisherfolks in Mindanao, they must work doubly hard not only to pay for the rent but also to produce the needed basic commodities of the whole nation – rice, corn, fish and other agriculture-based products that will be sold domestically and internationally to gain the revenues needed by the country.

Moro people fight to defend their resources for themselves, for the nation and for future generations. This should be the conviction that the new Bangsamoro political entity should advance and ensure that it is realized. The Moro people should also learn from the lessons of the ARMM which was used to facilitate the wholesale selling of Moro lands in the autonomous region to private companies and foreign corporations and enriched its leaders through concessions and commissions.

There are only few resources left for the Moro people as the national government sold out mineral-rich bodies of water, vast plantation lands, and areas having oil and natural gas reserves to foreign corporations such as Exxon Mobil, Total, Del Monte and other Chinese, Malaysian and American corporations. Many former MILF camps, which were decades-long protected to accommodate residents and refugees, have been taken over by multinational corporations and turned into fruit and oil palm plantations, displacing and impoverishing Moro communities.

Critics of the BOL should not be dismissed as mere peace spoilers because they have the basis for refuting a law that is not reflective of their current situation and decades-long struggle. It is time for the Moro people to really expose the insincerity of President Duterte to resolve the Moro problem and how. As in previous administrations, he uses it as a tool for counter-insurgency and instigate the Moro people to give up struggle for right to self-determination without the historical injustice to the Moro people being solved. ✨

MCPA Statement on the Signing of the GPH-MILF Comprehensive Agreement on the Bangsamoro (CAB)

28 March 2014

THE SIGNING OF THE COMPREHENSIVE AGREEMENT ON the Bangsamoro (CAB) on March 27, 2014 formally closes the peace negotiations between the Philippine government (GPH) and the Moro Islamic Liberation Front (MILF) but this does not yet conclude the peace process. The full implementation of the CAB will determine the conclusion of the GPH-MILF peace talks to be expressed in the signing by both parties of an Exit Agreement.

The CAB is not the first peace agreement that the Philippine government entered into with the Moro revolutionary groups. On September 2, 1996, the Philippine government under the Ramos administration signed the Final Peace Agreement (FPA) with the Moro National Liberation Front (MNLF).

The MNLF, founded by Prof. Nur Misuari in the aftermath of the infamous 1968 Jabidah massacre, began its armed rebellion in 1970 for an independent Bangsamoro state. However, the MNLF secessionist agenda took a different turn in 1976. Under the Marcos administration, Libyan President Muamar Gaddafi and the intercession of the Organization of Islamic Cooperation brokered the 1976 Tripoli Agreement. The agreement recognized Philippine sovereignty and introduced the concept of “autonomy” for the Moro people “within the realm of the Republic of the Philippines.”

We are witness to the abject failure of the GRP-MNLF peace agreement. Eighteen years after the GRP-MNLF FPA was forged, the Moro people’s aspiration for self-determination, the realization of an enduring just peace and genuine socio-economic development remain unfulfilled. That is precisely why the MILF was born.

The 1976 Tripoli Agreement divided the MNLF. A group of MNLF leaders led by Hashim Salamat opposed to the peace talks and preferred independence over autonomy broke away. In 1984, the MILF was officially established and waged an armed struggle for an independent Moro homeland.

But in 1997, the MILF entered into peace talks with the GPH. The MILF stated: “the most civilized, practical and democratic way of resolving the conflict in Mindanao and the Bangsamoro Question is through a principled negotiation resulting to a peace settlement that is comprehensive, honorable and just, and mutually beneficial to all affected peoples, especially the oppressed and marginalized Bangsamoro people.” At the core of their demand is for the “return and recognition of Moro ancestral domain.”

Like the MNLF, the MILF dropped its demand for independence and option to secede. It chose to work for a new political entity for self-governance expressed in the CAB as the establishment of the “Bangsamoro”. Like the MNLF, the MILF has acquiesced to submit to the authority and the legal and constitutional processes of the GPH.

With this, more than the MILF, the GPH now has the greater responsibility to implement the peace agreement. The MILF becomes dependent on the actions and processes of the GPH and President Benigno S. Aquino who they consider a “real partner in peace-making”. Can and will President Aquino undertake the full implementation of the CAB? Surely there is no clear guarantee as President Aquino is not the whole state and his term ends in 2016.

Nonetheless, the more substantial questions are: Will the “Bangsamoro” political entity, that is the hallmark of the CAB, resolve the problems of the Bangsamoro people and thereby bring about just and lasting peace in Muslim Mindanao? Will the CAB and “Bangsamoro” address the roots of widespread poverty and inequity and spur genuine development that truly benefits the Moro people especially the masses?

Unfortunately, the GPH-MILF CAB and the “Bangsamoro” political entity it envisions falls short of providing a framework and program for comprehensive socio-economic and political reforms that can address the root causes of the Bangsamoro problem.

While the CAB concedes an expanded territory and increased share of revenues from taxes and income from the exploitation of natural resources to the “Bangsamoro” (compared to the current ARMM), this promises the Moro people a palliative economic arrangement wherein only the ruling elite in Moro society will get the lion’s share while excluding the poor, exploited and oppressed Moro masses.

The “Bangsamoro” adopts the same flawed socio-economic program of the central government; that is, a foreign investments-dependent economy that only holds out the possibility of benefits “trickling down” to the impoverished Moro people. Even as the Moro peasants continue to suffer from the bondage of landlessness, poverty and backwardness, the agreement is being heralded as ushering in the unhampered entry of foreign multinational companies to plunder (aka “invest in”) the vast untapped natural resources of Muslim Mindanao and cause massive and irreparable damage to the Bangsamoro environment and ecosystem as has been the experience of other regions of the country.

While the CAB grants more autonomy and powers, the ministerial form of the “Bangsamoro”, touted as much better than that of the ARMM, does not give substantial powers to the Moro people. The so-called “asymmetrical relationship” between the central government and the “Bangsamoro” is not a fair restoration of Moro rights to govern themselves.

In the CAB, the MILF concedes the gradual and full disarmament of its armed forces, the Bangsamoro Islamic Armed Forces (BIAF). In exchange, the GPH will redeploy units of the Armed Forces of the Philippines (AFP) supposedly outside the territory of “Bangsamoro”. However, the agreement provides that the AFP shall retain installations inside the “Bangsamoro” territory “for national defense and security.” This puts the MILF and the Moro peoples at a disadvantage since it is unclear that the GPH will actually demilitarize the areas of the “Bangsamoro”. The CAB is also silent on the presence of US military troops and the establishment of US military facilities inside the “Bangsamoro” areas.

The resolute efforts of the MILF in armed struggle and subsequently peace negotiations for the recognition of the Moro people’s ancestral domain and right to self-determination has resulted, at best, with the recognition of Bangsamoro identity and the declaration of the establishment of the “Bangsamoro” political entity as an expression of the Moro people’s aspiration for self-governance. The CAB promises an expanded territory, more powers for the autonomous region and an increased share in the revenues and wealth derived from the “Bangsamoro” areas. The MILF had earlier conceded that the Framework on the Bangsamoro it signed in October 2012 was not a perfect document but is the “best compromise” they could have for now.

The GPH and President Aquino, in particular, gained the most from the CAB. This peace deal is touted as a legacy of the latter's administration. The Aquino regime has moved closer to its aim to pacify and eventually disarm the MILF-BIAF. It can now aggressively pursue the opening up to the highest bidder for the plunder of the natural wealth of the Moro people's ancestral domain whether these are by foreign multinational corporations or domestic big business interests.

Despite the CAB, the Moro people will continue to endure the national oppression, economic subjugation and dire poverty and backwardness albeit under the signboard of a supposedly newer and better form of regional autonomy.

The Bangsamoro problem remains and so a just and lasting peace in Muslim Mindanao remains elusive. Other Moro revolutionary entities such as the MNLF, the Bangsamoro Islamic Freedom Fighters (BIFF) and the Moro Revolutionary and Liberation Organization - National Democratic Front (MRLO-NDF) are continuing to wage armed struggle for self determination of the Bangsamoro people. ✊

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